

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NUMBER: 2005-0097-MLM-E TCEQ ID NO: RN100248749 ENF ID: 28531
RESPONDENT NAME: SOUTHWEST SHIPYARD, L.P.

Page 1 of 3

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> DRY CLEANER REGISTRATION	

SITE WHERE VIOLATION(S) OCCURRED: 18310 Market Street, Channelview, Harris County

TYPE OF OPERATION: Barge cleaning and repair facility

SMALL BUSINESS: Yes No

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

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 January 1, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, MC R-12, (713) 422-8931
TCEQ Regional Contact: Mr. Steve Smith, Houston Regional Office, MC R-12, (713) 767-3581
Respondent: Mr. Sanjay Rao, President, Southwest Shipyard, L.P., 8502 Cypress Street, Houston, Texas 77012
Respondent's Attorney: Ms. Eva Fromm O'Brien, Fulbright & Jaworski, Fulbright Tower, 1301 McKinney, Suite 5100, Houston, Texas 77010

**RESPONDENT'S NAME: SOUTHWEST SHIPYARD, L.P.
DOCKET NO.: 2005-0097-MLM-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: October 5, 2004 (Record Review), November 29, 2005, December 1, 2005 and December 5, 2005 (Investigations)</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: November 30, 2004 (NOE) and February 18, 2006 (NOE)</p> <p>Background Facts: An EDPRP was filed on April 25, 2006. A signed Agreed Order was received on August 17, 2006.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to comply with the permitted effluent limits at Outfall 001 for the months of March 2003, July 2003, October 2003, November 2003, December 2003, January 2004 and February 2004 [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 2605, Effluent Limitation and Monitoring Requirement No.1]. Failed to comply with the permitted effluent limits at Outfall 003. Specifically, the Respondent was non-compliant with the Total Suspended Solids ("TSS") daily average limit of 50 milligrams per liter ("mg/L") for February 2004 with a reported value of 62 mg/L [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1]. Failed to comply with the permitted effluent limits at Outfall 004 for the months of March 2003, May 2003, November 2003, December 2003, and February 2004 [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1]. Failed to comply with the permitted effluent limits at Outfall 005. Specifically, the Respondent was non-compliant with the TSS daily average limit of 50 mg/L for August 2003 with a reported value of 90 mg/L [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1]. Failed to comply with the permitted effluent limits at Outfall 006. Specifically, the Respondent was non-compliant with the Chemical Oxygen Demand daily maximum limit of 150 mg/L for April 2003 with a reported value of 178 mg/L [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1]. 	<p>Total Assessed: \$49,123</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Paid to General Revenue: \$49,123</p> <p>The administrative penalty of \$49,123 has been paid in full.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken</p> <p>The Executive Director recognizes the Respondent has undertaken the following corrective measures:</p> <ol style="list-style-type: none"> Installed digital recorders on January 3, 2006 for recording the gas flow and oxygen analysis at the barge cleaning flares FL-1 and FL-3. Developed a new template on July 6, 2006 for the accurate reporting of monthly reports for VOC emissions for the Barge Rail Painting Facility and Dry Docks DD1, DD2, and DD3STK, and instituted the use of a compliance calendar to ensure that all deviations are captured. <p>Ordering Provision(s)</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, submit monthly reports and supporting data for VOC emissions for October 2005 through December 2005 for review. Within 45 days, submit written certification notarized by a State of Texas Notary Public, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 1. Within 60 days, submit written certification of compliance with the effluent limits of TPDES Permit No. 2605, excluding the total suspended solids daily average effluent limit. The certification shall include detailed supporting documentation including laboratory reports and monitoring records and shall be submitted in accordance with Ordering Provision No. 7. Within 90 days, prepare and submit a major permit amendment for the requested increase of the total suspended solids daily average limit, including any necessary monitoring data, technical reports, and/or administrative reports.

**RESPONDENT'S NAME: SOUTHWEST SHIPYARD, L.P.
DOCKET NO.: 2005-0097-MLM-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>6. Failed to comply with the Ammonia Nitrogen effluent limit of 6 mg/L at Outfall 001. Specifically, grab samples taken indicated the following Ammonia Nitrogen levels: 17 mg/L on July 10, 2001; 10.8 mg/L on October 1, 2001; and 11.2 mg/L on September 27, 2002 [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1].</p> <p>7. Failed to submit deviation reports for 2004 and for the first semiannual reporting period of 2005 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), Federal Operating Permit No. O-1260, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>8. Failed to install a continuous run time flow monitor to record average hourly values of flow and composition for Flares FL-1 and FL-3. Specifically, the average hourly values of low and composition of the vent streams to Flares LF-1 and LF-3 were not recorded for the time period from January 1, 2004 through January 3, 2006 [30 TEX. ADMIN. CODE §§ 122.143(4) and 116.115(c), Federal Operating Permit No. O-1260, Special Condition No. 10, New Source Review ("NSR") Permit No. 9442, Special Condition No. 11D, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>9. Failed to record and develop an accurate monthly report for VOC emissions in pounds per hour ("lbs/hr") on a daily basis for the Barge Rail Painting Facility. Specifically, the VOC emissions rates in lb/hr were not converted to a daily basis for Barge Rail Painting Stacks 1 and 2 and the Barge Rail Painting Fugitives for the period from January 1, 2004 through September 30, 2005 [30 TEX. ADMIN. CODE §§ 122.143(4) and 116.115(c), Federal Operating Permit No. O-1260, Special Condition No. 10, NSR Permit No. 36241, Special Condition No. 10C, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>10. Failed to record and develop an accurate monthly report for VOC emissions in lbs/hr on a daily basis for Dry Docks DD1, DD2 and DD3STK. Specifically, daily VOC emissions in lbs/hr were not calculated for the period of January 1, 2004 through September 30, 2005 [30 TEX. ADMIN. CODE §§ 122.143(4) and 116.115(c), Federal Operating Permit No. O-1260, Special Condition No. 10, NSR Permit No. 43774, Special Condition No. 16E, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>5. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.</p> <p>6. Within 360 days, submit written certification, including detailed supporting documentation including laboratory reports and monitoring records to demonstrate compliance with new or existing total suspended solids daily average effluent limit applicable for TPDES Permit No. 2605.</p> <p>7. Written certification required by Ordering Provisions Nos. 3 and 6, shall be notarized by a State of Texas Notary.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES	Assigned	21-Feb-2006			
	PCW	22-Mar-2006	Screening	28-Feb-2006	EPA Due 01-Sep-2006

RESPONDENT/FACILITY INFORMATION					
Respondent	Southwest Shipyard, L.P.				
Reg. Ent. Ref. No.	RN100248749				
Facility/Site Region	12-Houston	Major/Minor Source	Major Source		

CASE INFORMATION					
Enf./Case ID No.	28531	No. of Violations	4		
Docket No.	2005-0097-MLM-E	Order Type	1660		
Media Program(s)	Air Quality	Enf. Coordinator	Sherronda Martin		
Multi-Media		EC's Team	Enforcement Team 5		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,700
---	-------------------	----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	108% Enhancement	Subtotals 2, 3, & 7	\$10,476
---------------------------	------------------	--------------------------------	-----------------

Notes: The respondent has no similar violations, thirty-four non-similar written NOV's, and received two 1660 Agreed Orders.

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 a small x)

Notes: The respondent is not yet in compliance.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
-------------------------	-----------------	-------------------	------------

Total EB Amounts	\$2,515	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$8,160	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,176
-----------------------------	-----------------------	-----------------

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	\$20,176
-----------------------------	-----------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,176
-----------------------------------	-------------------------------	-----------------

DEFERRAL		Reduction	Adjustment	\$0
-----------------	--	------------------	-------------------	------------

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

Notes: No deferral offered, as settlement not expedited.

PAYABLE PENALTY	\$20,176
------------------------	-----------------

Screening Date 28-Feb-2006	Docket No. 2005-0097-MLM-E	PCW
Respondent Southwest Shipyard, L.P.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 28531		<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No. RN100248749		
Media [Statute] Air Quality		
Enf. Coordinator Sherronda Martin		

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	34	68%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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 judgements 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</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%
<i>Please Enter Yes or No</i>			
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) 108%

>> **Repeat Violator (Subtotal 3)**

<input type="text" value="No"/>	Adjustment Percentage (Subtotal 3) 0%
---------------------------------	--

>> **Compliance History Person Classification (Subtotal 7)**

<input type="text" value="Average Performer"/>	Adjustment Percentage (Subtotal 7) 0%
--	--

>> **Compliance History Summary**

Compliance History Notes The respondent has no similar violations, thirty-four non-similar written NOVs, and received two 1660 Agreed Orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 108%

Screening Date	28-Feb-2006	Docket No.	2005-0097-MLM-E	PCW
Respondent	Southwest Shipyard, L.P.	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	28531	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN100248749			
Media [Statute]	Air Quality			
Enf. Coordinator	Sherronda Martin			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(B), Federal Operating Permit O-1260, General Terms and Conditions			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to submit deviation reports for 2004 and for the first semiannual reporting period of 2005 as documented during an investigation conducted November 29, December 1, and December 5, 2005.			
Base Penalty				\$10,000

>> **Environmental, Property and Human Health Matrix**

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	
Matrix Notes	The respondent failed to meet 100% of the rule requirement.				

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty \$7,500

Three single events are recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$62"/>	Violation Final Penalty Total <input type="text" value="\$15,600"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$15,600"/>	

Economic Benefit Worksheet

Respondent: Southwest Shipyard, L.P.
Case ID No.: 28531
Reg. Ent. Reference No.: RN100248749
Media [Statute]: Air Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)	\$450	01-Jan-2004	30-Sep-2006	2.7	\$62	n/a	\$62

Notes for DELAYED costs
 Estimated cost (\$150/ea.) to prepare and submit deviation reports for the certification period of January 1, 2004 to December 31, 2004 and the first semiannual reporting period of January 1, 2005 to December 31, 2005. Date required is based on the first date of non-compliance. Final date is based on the expected 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 \$450

TOTAL \$62

Screening Date	28-Feb-2006	Docket No.	2005-0097-MLM-E	PCW
Respondent	Southwest Shipyard, L.P.	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	28531	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN100248749			
Media [Statute]	Air Quality			
Enf. Coordinator	Sherronda Martin			
Violation Number	2			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4) and 116.115(c), Federal Operating Permit O-1260, Special Condition 10, New Source Review Permit No. 9442, Special Condition 11D			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to install a continuous run time flow monitor to record the average hourly values of flow and composition for Flares FL-1 and FL-3. Specifically, the average hourly values of flow and composition of the vent streams to Flares FL-1 and FL-3 were not recorded for the time period from January 1, 2004 through January 3, 2006.			
Base Penalty				\$10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential			X	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes
Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,000

Two single events are recommended.

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

Estimated EB Amount \$614 **Violation Final Penalty Total** \$4,160

This violation Final Assessed Penalty (adjusted for limits) \$4,160

Economic Benefit Worksheet

Respondent Southwest Shipyard, L.P.
 Case ID No. 28531
 Reg. Ent. Reference No. RN100248749
 Media [Statute] Air Quality
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

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)	\$6,110	01-Jan-2004	03-Jan-2006	2.0	\$614	n/a	\$614

Notes for DELAYED costs: Cost for installing a continuous run time flow monitor for Flares FL-1 and FL-3. Date required references the first day of non-compliance. Final date is the date the respondent came into 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 \$6,110

TOTAL \$614

Screening Date	28-Feb-2006	Docket No.	2005-0097-MLM-E	PCW
Respondent	Southwest Shipyard, L.P.	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	28531	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN100248749			
Media [Statute]	Air Quality			
Enf. Coordinator	Sherronda Martin			
Violation Number	3			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4) and 116.115(c), Federal Operating Permit O-1260, Special Condition 10, New Source Review Permit No. 36241, Special Condition 10C			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to record and develop an accurate monthly report for VOC emissions in pounds per hour (lbs/hr) on a daily basis for the Barge Rail Painting Facility. Specifically, the VOC emissions rates in lbs/hr were not converted to a daily basis for Barge Rail Painting Stacks 1 and 2 and the Barge Rail Painting Fugitives for the period from January 1, 2004 through September 30, 2005.			
Base Penalty				\$10,000

>> **Environmental, Property and Human Health Matrix**

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				
Potential					Percent

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
				X	
					Percent

Matrix Notes Respondent failed to meet less than 30% of the requirement.

Adjustment -\$9,900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 1

	<i>daily</i>	
	<i>monthly</i>	
<i>mark only one</i>	<i>quarterly</i>	
<i>use a small x</i>	<i>semiannual</i>	
	<i>annual</i>	
	<i>single event</i>	X

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$920 Violation Final Penalty Total \$208

This violation Final Assessed Penalty (adjusted for limits) \$208

Economic Benefit Worksheet

Respondent: Southwest Shipyard, L.P.

Case ID No.: 28531

Reg. Ent. Reference No.: RN100248749

Media [Statute]: Air Quality

Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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)	\$800	01-Jan-2004	30-Sep-2006	3.0	\$120	\$800	\$920

Notes for AVOIDED costs

Estimated cost for recording and developing an accurate monthly report for VOC emissions on a daily basis for Barge Rail Painting Stacks 1 and 2. Date required is the first date of non-compliance. Final date is based on the expected date of compliance.

Approx. Cost of Compliance \$800

TOTAL \$920

Screening Date 28-Feb-2006 **Docket No.** 2005-0097-MLM-E **PCW**
Respondent Southwest Shipyard, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 28531 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN100248749
Media [Statute] Air Quality
Enf. Coordinator Sherronda Martin
Violation Number 4
Primary Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 116.115(c), Federal Operating Permit O-1260, Special Condition 10, New Source Review Permit No. 43774, Special Condition 16E
Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)
Violation Description Failure to record and develop an accurate monthly report for VOC emissions in pounds per hour (lbs/hr) on a daily basis for Dry Docks DD1, DD2 and DD3STK. Specifically, daily VOC emissions in lbs/hr were not calculated from the period of January 1, 2004 through September 30, 2005.
Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
Actual					Percent
Potential					

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
			X	Percent 1%

Matrix Notes: Respondent failed to meet less than 30% of the requirement.

Adjustment -\$9,900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 1

<i>mark only one use a small x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	X	

Violation Base Penalty \$100

One single event is recommended.

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

Estimated EB Amount \$920

Violation Final Penalty Total \$208

This violation Final Assessed Penalty (adjusted for limits) \$208

Economic Benefit Worksheet

Respondent: Southwest Shipyard, L.P.
 Case ID No. 28531
 Reg. Ent. Reference No. RN100248749
 Media [Statute] Air Quality
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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)	\$800	01-Jan-2004	30-Sep-2006	3.0	\$120	\$800	\$920

Notes for AVOIDED costs

Estimated cost for recording and developing an accurate monthly report for VOC emissions on a daily basis for Dry Docks 1, 2, and 3. Date required is the first date of non-compliance. Final date is based on the expected date of compliance.

Approx. Cost of Compliance \$800

TOTAL \$920

Compliance History

Customer/Respondent/Owner-Operator:	CN600135354 Southwest Shipyard, L.P.	Classification: AVERAGE	Rating: 0.910
Regulated Entity:	RN100248749 SOUTHWEST SHIPYARD	Classification: AVERAGE	Site Rating: 0.91
ID Number(s):	WATER LICENSING	LICENSE	1012781
	WASTEWATER LICENSING	LICENSE	WQ0002605000
	AIR NEW SOURCE PERMITS	REGISTRATION	74600
	AIR NEW SOURCE PERMITS	PERMIT	55646
	AIR NEW SOURCE PERMITS	PERMIT	71371
	AIR OPERATING PERMITS	PERMIT	1260
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0686T
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	59001
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012781
	WASTE WATER GENERAL PERMIT	PERMIT	2E0000020
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31208
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000820274
	WASTEWATER	PERMIT	TPDES0092282
	WASTEWATER	PERMIT	WQ0002605000
	AIR NEW SOURCE PERMITS	AFS NUM	0826
	AIR NEW SOURCE PERMITS	PERMIT	54007
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0686T
	AIR NEW SOURCE PERMITS	PERMIT	48021
	AIR NEW SOURCE PERMITS	PERMIT	44294
	AIR NEW SOURCE PERMITS	PERMIT	43909
	AIR NEW SOURCE PERMITS	PERMIT	43774
	AIR NEW SOURCE PERMITS	PERMIT	43491
	AIR NEW SOURCE PERMITS	PERMIT	35353
	AIR NEW SOURCE PERMITS	PERMIT	35585
	AIR NEW SOURCE PERMITS	PERMIT	35767
	AIR NEW SOURCE PERMITS	PERMIT	35698
	AIR NEW SOURCE PERMITS	PERMIT	36241
	AIR NEW SOURCE PERMITS	PERMIT	34783
	AIR NEW SOURCE PERMITS	PERMIT	23134
	AIR NEW SOURCE PERMITS	PERMIT	12182
	AIR NEW SOURCE PERMITS	PERMIT	9442
	AIR NEW SOURCE PERMITS	PERMIT	4759
	STORMWATER	PERMIT	TXR05L565

Location:	18310 MARKET ST, CHANNELVIEW, TX, 77530	Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON	
Date Compliance History Prepared:	February 02, 2005	
Agency Decision Requiring Compliance History:	Enforcement	
Compliance Period:	January 06, 2000 to January 06, 2005	

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

Name: Erika Fair Phone: (512) 239-6673

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.

Effective Date: 10/11/04

ADMINORDER 2003-1450-IHW-E

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)

Description: Disposed of hazardous waste at an unauthorized disposal facility and placed four 55-gallon drums of hazardous waste in a trash compactor used for Class 1 plant trash.

Effective Date: 12/12/02

ADMINORDER 2002-0537-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter H 101.360(a)[G]

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit Form ECT-3, Level of Activity Certification by 6/30/01.

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	11/19/2002	(214147)
2	11/26/2001	(214146)
3	11/16/2000	(214145)
4	10/18/2002	(214143)
5	11/01/2001	(214142)
6	10/18/2000	(214141)
7	09/19/2002	(214140)
8	09/19/2001	(214139)
9	05/10/2004	(271652)
10	09/21/2000	(214138)
11	08/15/2002	(214137)
12	02/23/2004	(318986)
13	08/20/2001	(214136)
14	08/21/2000	(214135)
15	03/21/2003	(318987)
16	02/25/2003	(11827)
17	02/21/2003	(214134)
18	07/15/2002	(214133)
19	03/25/2004	(318989)
20	07/17/2001	(214132)
21	07/17/2000	(214131)
22	05/22/2003	(318991)
23	06/17/2002	(214130)
24	06/22/2004	(318992)
25	06/18/2001	(214129)
26	06/20/2000	(214128)
27	05/16/2002	(214127)
28	06/23/2003	(318994)
29	05/23/2001	(214126)
30	06/22/2004	(318995)
31	05/18/2000	(214125)
32	02/13/2002	(214124)
33	11/26/2002	(15918)

34 04/24/2003 (214123)
35 08/22/2003 (318998)
36 04/18/2002 (214122)
37 06/08/2001 (214121)
38 09/23/2003 (319000)
39 09/18/2000 (214120)
40 12/12/2000 (40162)
41 03/17/2000 (214119)
42 08/22/2003 (319002)
43 03/15/2002 (214118)
44 05/03/2001 (214117)
45 11/24/2003 (319003)
46 06/17/2002 (214116)
47 12/29/2003 (319004)
48 02/21/2003 (214115)
49 01/23/2004 (319005)
50 02/19/2002 (214114)
51 05/01/2001 (214113)
52 02/17/2000 (214112)
53 11/30/2004 (341461)
54 01/21/2000 (79908)
55 02/22/2000 (79909)
56 02/22/2000 (79910)
57 02/26/2000 (79911)
58 03/30/2000 (79912)
59 05/05/2000 (79913)
60 05/16/2000 (79914)
61 05/16/2000 (79915)
62 08/17/2000 (79916)
63 10/04/2000 (79917)
64 11/20/2000 (79918)
65 12/12/2000 (79919)
66 01/10/2001 (79920)
67 03/06/2001 (79921)
68 08/04/2001 (79922)
69 12/27/2001 (79923)
70 01/07/2002 (79924)
71 02/25/2002 (79925)
72 02/25/2002 (79926)
73 07/01/2002 (79927)
74 07/01/2002 (79928)
75 12/17/2004 (336782)
76 02/23/2004 (251425)
77 01/21/2000 (214155)
78 01/22/2003 (214154)
79 01/17/2002 (214153)
80 04/26/2001 (214152)
81 12/20/2002 (214150)
82 12/20/2001 (214149)

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

Date: 10/31/2001 (214146)

Self Report?
YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 11/26/2002 (15918) Classification: Moderate
Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)
Description: Failure by the regulated entity to be under the direct supervision of a licensed water works operator.
Classification: Moderate
Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to make available sanitary control easements for well 1 at the time of inspection.
Classification: Moderate
Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to make available sanitary control easements for well 2 at the time of inspection.
Date: 07/31/2001 (214136) Classification: Moderate
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 01/31/2004 (318986) Classification: Moderate
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 06/30/2000 (214131) Classification: Moderate
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 02/29/2004 (318989) Classification: Moderate
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 05/31/2002 (214130) Classification: Moderate
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2003 (318991) Classification: Moderate
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2004 (318992) Classification: Moderate
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2001 (214126) Classification: Moderate
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2003 (318994) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2004 (318995) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2003 (214123) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2001 (214121) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2003 (318998) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2000 (214120) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2003 (319000) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (319002) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (214115) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2003 (319003) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2002 (214114) Classification: Moderate
Self Report? YES
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Self Report?		Classification: Moderate
YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
	Description: Failure to meet the limit for one or more permit parameter	
Date: 11/30/2003	(319004)	
Self Report?		Classification: Moderate
YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
	Description: Failure to meet the limit for one or more permit parameter	
Date: 12/31/2003	(319005)	
Self Report?		Classification: Moderate
YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
	Description: Failure to meet the limit for one or more permit parameter	
Date: 11/30/2002	(214150)	
Self Report?		Classification: Moderate
YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]	
	Description: Failure to meet the limit for one or more permit parameter	

F. Environmental audits.

N/A

Description:

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision December 7, 2004

DATES	Assigned 20-Dec-2004				
	PCW 16-Oct-2006	Screening 06-Jan-2005	Priority Due 18-Feb-2005	EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Southwest Shipyard, L.P.
Reg. Ent. Ref. No.	RN100248749
Additional ID No(s).	Texas Pollutant Discharge Elimination System Permit No. 02605
Facility/Site Region	12-Houston <input type="checkbox"/> Major/Minor Source <input checked="" type="checkbox"/> Minor Source

CASE INFORMATION			
Enf./Case ID No.	28531	No. of Violations	6
Docket No.	2005-0097-MLM-E	Order Type	1660 without deferral <input checked="" type="checkbox"/>
Case Priority	3 <input checked="" type="checkbox"/>	Enf. Coordinator	Rebecca Johnson
Media Program(s)	Water Quality <input checked="" type="checkbox"/>	EC's Team	Enforcement Team 1 <input checked="" type="checkbox"/>
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section		
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 \$13,000	
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	157% Enhancement Subtotals 2, 3, & 7 \$20,410	
Notes	Enhancement due to two prior Agreed Orders issued December 12, 2002 (Docket No. 2002-0537-AIR-E) and October 11, 2004 (Docket No. 2003-1450-IHW-E), and one Commission-issued NOV for non-similar violations issued November 26, 2002. Additionally there were 23 self-reported effluent violations at this facility location.	
Culpability	No <input checked="" type="checkbox"/> 0% Enhancement Subtotal 4 \$0	
Notes	Respondent does not meet culpability criteria.	
Good Faith Effort to Comply	0% Reduction Subtotal 5 \$0	
Extraordinary	Before NOV	NOV to EDPRP/Settlement Offer
Ordinary		
N/A	x	(mark with a small x)
Notes	Respondent is not yet in compliance.	
Economic Benefit	0% Enhancement* Subtotal 6 \$0	
Total EB Amounts	\$3,525	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$750	
SUM OF SUBTOTALS 1-7	Final Subtotal \$33,410	
OTHER FACTORS AS JUSTICE MAY REQUIRE	13% Reduction Adjustment -\$4,463	
<small>Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)</small>		
Notes	Recommend reduction in the penalty so that monthly self-reported violations do not overly impact the penalty amount.	
	Final Penalty Amount \$28,947	
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$28,947	
DEFERRAL	0% Reduction Adjustment \$0	
<small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	No deferral is recommended since this is not an expedited case.	
PAYABLE PENALTY	\$28,947	

Screening Date 06-Jan-2005 **Docket No.** 2005-0097-MLM-E **PCW**
Respondent Southwest Shipyard, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 28531 *PCW Revision December 7, 2004*
Reg. Ent. Reference No. RN100248749
Additional ID No(s). Texas Pollutant Discharge Elimination System Permit No. 02605
Media [Statute] Water Quality
Enf. Coordinator Rebecca Johnson
Site Address 18310 Market Street, Channelview, Harris County

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 (<i>number of NOVs meeting criteria</i>)	23	115%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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 judgements 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</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%
<i>Please Enter Yes or No</i>			
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) 157%

>> **Repeat Violator (Subtotal 3)**

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement due to two prior Agreed Orders issued December 12, 2002 (Docket No. 2002-0537-AIR-E) and October 11, 2004 (Docket No. 2003-1450-IHW-E), and one Commission-issued NOV for non-similar violations issued November 26, 2002. Additionally there were 23 self-reported effluent violations at this facility location.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 157%

Screening Date	06-Jan-2005	Docket No.	2005-0097-MLM-E	PCW
Respondent	Southwest Shipyard, L.P.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	28531			<i>PCW Revision December 7, 2004</i>
Reg. Ent. Reference No.	RN100248749			
Additional ID No(s).	Texas Pollutant Discharge Elimination System Permit No. 02605			
Media [Statute]	Water Quality			
Enf. Coordinator	Rebecca Johnson			
Violation Number	<input type="text" value="1"/>			
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a) and TPDES Permit No. 02605, Effluent Limitations and Monitoring Requirements No. 1			
Secondary Rule Cite(s)				
Violation Description	Failure to comply with the permitted effluent limits at Outfall 001 for the months of March 2003, July 2003, October 2003, November 2003, December 2003, January 2004, and February 2004 as documented during a record review on October 5, 2004. See attached chart.			
		Base Penalty	<input type="text" value="\$10,000"/>	

>> **Environmental, Property and Human Health Matrix**

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="checkbox"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

A simplified model was use to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of a insignificant amount of contaminants which did not exceed levels protective of human health and the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input checked="" type="checkbox"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input type="text"/>

Violation Base Penalty

Four quarterly events are recommended based on violations in the quarters including the noncompliant months of March 2003, July 2003, October 2003, November 2003, December 2003, January 2004, and February 2004.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$3,525"/>	Violation Final Penalty Total <input type="text" value="\$8,907"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$8,907"/>	

Economic Benefit Worksheet

Respondent: Southwest Shipyard, L.P.
Case ID No.: 28531
Reg. Ent. Reference No.: RN100248749
Additional ID No(s): Texas Pollutant Discharge Elimination System Permit No. 02605
Media [Statute]: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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	\$750	01-Mar-2003	21-Aug-2007	4.5	\$168	\$3,358	\$3,525
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

Estimated cost for additional oversight and sampling which might have reduced or alleviated the exceedances. Date Required is first month effluent violations were noted for this location. Final date is estimated date of compliance.

Approx. Cost of Compliance \$750

TOTAL \$3,525

Screening Date	06-Jan-2005	Docket No.	2005-0097-MLM-E	PCW
Respondent	Southwest Shipyard, L.P.	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	28531	<i>PCW Revision December 7, 2004</i>		
Reg. Ent. Reference No.	RN100248749			
Additional ID No(s)	Texas Pollutant Discharge Elimination System Permit No. 02605			
Media [Statute]	Water Quality			
Enf. Coordinator	Rebecca Johnson			
Violation Number	2			
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a) and TPDES Permit No. 02605, Effluent Limitations and Monitoring Requirements No. 1			
Secondary Rule Cite(s)				
Violation Description	Failed to comply with effluent limits at Outfall 003. The Respondent was non-compliant with the Total Suspended Solids ("TSS") daily average limit of 50 milligrams per liter ("mg/L") for February 2004 with a reported value of 62 mg/L, as documented during a record review on October 5, 2004.			
Base Penalty				\$10,000

>> **Environmental, Property and Human Health Matrix**

Harm			
Release	Major	Moderate	Minor
Actual			X
Potential			
			Percent <input type="text" value="10%"/>

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
			Percent <input type="text"/>
Matrix Notes	The violation has exposed human health or the environment to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.		

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>

single event

Violation Base Penalty

One quarterly event is recommended based on the violation in the quarter including the noncompliant month of February 2004.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$2,227"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,227"/>	

Economic Benefit Worksheet

Respondent: Southwest Shipyard, L.P.
Case ID No.: 28531
Reg. Ent. Reference No.: RN100248749
Additional ID No(s): Texas Pollutant Discharge Elimination System Permit No. 02605
Media [Statute]: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Economic Benefit addressed in Violation #1.

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: Economic Benefit addressed in Violation #1.

Approx. Cost of Compliance

TOTAL

Screening Date	06-Jan-2005	Docket No.	2005-0097-MLM-E	PCW
Respondent	Southwest Shipyard, L.P.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	28531	<i>PCW Revision December 7, 2004</i>		
Reg. Ent. Reference No.	RN100248749			
Additional ID No(s)	Texas Pollutant Discharge Elimination System Permit No. 02605			
Media [Statute]	Water Quality			
Enf. Coordinator	Rebecca Johnson			
Violation Number	3			
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a) and TPDES Permit No. 02605, Effluent Limitations and Monitoring Requirements No. 1			
Secondary Rule Cite(s)				
Violation Description	Failed to comply with effluent limits at Outfall 004 for the months of March 2003, May 2003, November 2003, December 2003 and February 2004, as documented during a record review on October 5, 2004. See attached chart.			
Base Penalty			\$10,000	

>> **Environmental, Property and Human Health Matrix**

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Matrix Notes The violation has exposed human health or the environment to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 3

<i>mark only one use a small x</i>	<i>daily</i>	<input type="checkbox"/>
	<i>monthly</i>	<input type="checkbox"/>
	<i>quarterly</i>	<input checked="" type="checkbox"/>
	<i>semiannual</i>	<input type="checkbox"/>
	<i>annual</i>	<input type="checkbox"/>
	<i>single event</i>	<input type="checkbox"/>

Violation Base Penalty \$3,000

Three quarterly events are recommended based on the quarters including the noncompliant months of March 2003, May 2003, November 2003, December 2003 and February 2004.

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	\$0	Violation Final Penalty Total	\$6,680
This violation Final Assessed Penalty (adjusted for limits)		\$6,680	

Economic Benefit Worksheet

Respondent Southwest Shipyard, L.P.
Case ID No. 28531
Reg. Ent. Reference No. RN100248749
Additional ID No(s). Texas Pollutant Discharge Elimination System Permit No. 02605
Media [Statute] Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs Economic Benefit addressed in Violation #1.

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 Economic Benefit addressed in Violation #1.

Approx. Cost of Compliance \$0
TOTAL \$0

Screening Date 06-Jan-2005

Docket No. 2005-0097-MLM-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 28531

PCW Revision December 7, 2004

Reg. Ent. Reference No. RN100248749

Additional ID No(s). Texas Pollutant Discharge Elimination System Permit No. 02605

Media [Statute] Water Quality

Enf. Coordinator Rebecca Johnson

Violation Number

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a) and TPDES Permit No. 02605, Effluent Limitations and Monitoring Requirements No. 1

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to comply with effluent limits at Outfall 005. The Respondent was non-compliant with the TSS daily average limit of 50 mg/L for August 2003 with a reported value of 90 mg/L, as documented during a record review on October 5, 2004.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes

The violation has exposed human health or the environment to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended based on the quarter including the noncompliant month of August 2003.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Southwest Shipyard, L.P.
Case ID No.: 28531
Reg. Ent. Reference No.: RN100248749
Additional ID No(s): Texas Pollutant Discharge Elimination System Permit No. 02605
Media [Statute]: Water Quality
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs Economic Benefit addressed in Violation #1.

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 Economic Benefit addressed in Violation #1.

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date	06-Jan-2005	Docket No.	2005-0097-MLM-E	PCW
Respondent	Southwest Shipyard, L.P.	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	28531	<i>PCW Revision December 7, 2004</i>		
Reg. Ent. Reference No.	RN100248749			
Additional ID No(s).	Texas Pollutant Discharge Elimination System Permit No. 02605			
Media [Statute]	Water Quality			
Enf. Coordinator	Rebecca Johnson			
Violation Number	5			
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a) and TPDES Permit No. 02605, Effluent Limitations and Monitoring Requirements No. 1			
Secondary Rule Cite(s)				
Violation Description	Failed to comply with effluent limits at Outfall 006. The Respondent was non-compliant with the Chemical Oxygen Demand daily maximum limit of 150 mg/L for April 2003 with a reported value of 178 mg/L, as documented during a record review on October 5, 2004.			
Base Penalty				\$10,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual			X	Percent <input style="width: 50px;" type="text" value="10%"/>
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input style="width: 50px;" type="text"/>

Matrix Notes The violation has exposed human health or the environment to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

	daily	
	monthly	
<i>mark only one use a small x</i>	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty

One quarterly event is recommended based on the quarter including the noncompliant month of April 2003.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input style="width: 50px;" type="text" value="\$0"/>	Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$2,227"/>
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$2,227"/>	

Economic Benefit Worksheet

Respondent: Southwest Shipyard, L.P.
Case ID No.: 28531
Reg. Ent. Reference No.: RN100248749
Additional ID No(s): Texas Pollutant Discharge Elimination System Permit No. 02605
Media [Statute]: Water Quality
Violation No.: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Economic Benefit addressed in Violation #1.

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: Economic Benefit addressed in Violation #1.

Approx. Cost of Compliance \$0
TOTAL \$0

Screening Date 06-Jan-2005	Docket No. 2005-0097-MLM-E	PCW		
Respondent Southwest Shipyard, L.P.	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 28531	<i>PCW Revision December 7, 2004</i>			
Reg. Ent. Reference No. RN100248749				
Additional ID No(s). Texas Pollutant Discharge Elimination System Permit No. 02605				
Media [Statute] Water Quality				
Enf. Coordinator Rebecca Johnson				
Violation Number <input type="text" value="6"/>				
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a) and TPDES Permit No. 02605, Effluent Limitations and Monitoring Requirements No. 1			
Secondary Rule Cite(s)				
Violation Description	Failed to comply with the Ammonia Nitrogen effluent limit of 6 mg/L at Outfall 001. Grab samples taken indicate the following Ammonia Nitrogen levels: 17 mg/L on July 10, 2001, 10.8 mg/L on October 1, 2001, and 11.2 mg/L on September 27, 2002.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	X
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="10%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text"/>	
Matrix Notes	A simplified model was use to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of a insignificant amount of contaminants which did not exceed levels protective of human health and the environment.			
		Adjustment	<input type="text" value="-\$9,000"/>	
		Base Penalty Subtotal	<input type="text" value="\$1,000"/>	
Violation Events				
Number of Violation Events		<input type="text" value="3"/>		
mark only one use a small x	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	X		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
		Violation Base Penalty	<input type="text" value="\$3,000"/>	
Three quarterly events are recommended based on the quarters including the noncompliant grab samples taken on July 10, 2001, October 1, 2001, and September 27, 2002.				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$6,680"/>	
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$6,680"/>	

Economic Benefit Worksheet

Respondent Southwest Shipyard, L.P.
Case ID No. 28531
Reg. Ent. Reference No. RN100248749
Additional ID No(s). Texas Pollutant Discharge Elimination System Permit No. 02605
Media [Statute] Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs Economic Benefit addressed in Violation #1.

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 Economic Benefit addressed in Violation #1.

Approx. Cost of Compliance \$0
TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600135354 Southwest Shipyard, L.P.	Classification: AVERAGE	Rating: 1.00
Regulated Entity:	RN100248749 SOUTHWEST SHIPYARD	Classification: AVERAGE	Site Rating: 1.86
ID Number(s):	WASTE WATER GENERAL PERMIT AIR OPERATING PERMITS	PERMIT ACCOUNT NUMBER	2E0000020 HG0686T
	AIR OPERATING PERMITS INDUSTRIAL AND HAZARDOUS WASTE GENERATION	PERMIT EPA ID	1260 TXD000820274
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31208
	WASTEWATER	PERMIT	WQ0002605000
	WASTEWATER	PERMIT	TPDES0092282
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	59001
	AIR NEW SOURCE PERMITS	PERMIT	4759
	AIR NEW SOURCE PERMITS	PERMIT	9442
	AIR NEW SOURCE PERMITS	PERMIT	12182
	AIR NEW SOURCE PERMITS	PERMIT	23134
	AIR NEW SOURCE PERMITS	PERMIT	34783
	AIR NEW SOURCE PERMITS	PERMIT	36241
	AIR NEW SOURCE PERMITS	PERMIT	35698
	AIR NEW SOURCE PERMITS	PERMIT	35767
	AIR NEW SOURCE PERMITS	PERMIT	35585
	AIR NEW SOURCE PERMITS	PERMIT	35353
	AIR NEW SOURCE PERMITS	PERMIT	43491
	AIR NEW SOURCE PERMITS	PERMIT	43774
	AIR NEW SOURCE PERMITS	PERMIT	43909
	AIR NEW SOURCE PERMITS	PERMIT	44294
	AIR NEW SOURCE PERMITS	PERMIT	48021
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0686T
	AIR NEW SOURCE PERMITS	PERMIT	54007
	AIR NEW SOURCE PERMITS	AFS NUM	0826
	AIR NEW SOURCE PERMITS	REGISTRATION	75783
	AIR NEW SOURCE PERMITS	PERMIT	71371
	AIR NEW SOURCE PERMITS	PERMIT	55646
	AIR NEW SOURCE PERMITS	REGISTRATION	74600
	AIR NEW SOURCE PERMITS	REGISTRATION	75319
	AIR NEW SOURCE PERMITS	REGISTRATION	77255
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012781
	STORMWATER	PERMIT	TXR05L565
	WASTEWATER LICENSING	LICENSE	WQ0002605000
	WATER LICENSING	LICENSE	1012781
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31208
Location:	18310 MARKET ST, CHANNELVIEW, TX, 77530	Rating Date: 9/1/2005 Repeat Violator: NO	

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 04, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 04, 2001 to April 04, 2006

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

Name: Sherronda Martin Phone: 713-767-3680

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Y |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | |
| 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.

Effective Date: 10/11/2004

ADMINORDER 2003-1450-IHW-E

Classification:

30 TAC Chapter 335, SubChapter A 335.2(b)

Description: Disposed of hazardous waste at an unauthorized disposal facility and placed four 55-gallon drums of hazardous waste in a trash compactor used for Class 1 plant trash.

Effective Date: 12/12/2002

ADMINORDER 2002-0537-AIR-E

Classification:

30 TAC Chapter 101, SubChapter H 101.360(a)[G]

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit Form ECT-3, Level of Activity Certification by 6/30/01.

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. (CEEDS Inv. Track. No.)

- 1 (214147)
- 2 (214146)
- 3 (214143)
- 4 (214142)
- 5 (214140)
- 6 (214139)
- 7 (271652)
- 8 (214137)
- 9 (318986)
- 10 (214136)
- 11 (418488)
- 12 (318987)
- 13 (11827)
- 14 (214134)
- 15 (214133)
- 16 (318989)
- 17 (418359)
- 18 (214132)
- 19 (403530)
- 20 (318991)
- 21 (445848)
- 22 (214130)
- 23 (318992)
- 24 (374296)
- 25 (445849)
- 26 (214129)
- 27 (445850)
- 28 (214127)
- 29 (318994)
- 30 (214126)
- 31 (318995)
- 32 (214124)
- 33 (15918)
- 34 (214123)
- 35 (318998)
- 36 (214122)

37 (214121)
38 (350825)
39 (319000)
40 (406438)
41 (425259)
42 (319002)
43 (399621)
44 (214118)
45 (425260)
46 (214117)
47 (405185)
48 (319003)
49 (214116)
50 (425261)
51 (319004)
52 (214115)
53 (425262)
54 (319005)
55 (214114)
56 (402214)
57 (425263)
58 (362123)
59 (214113)
60 (405682)
61 (401264)
62 (362124)
63 (439838)
64 (362125)
65 (341461)
66 (362126)
67 (362127)
68 (362128)
69 (362129)
70 (405561)
71 (402207)
72 (79922)
73 (79923)
74 (79924)
75 (79925)
76 (79926)
77 (418286)
78 (79927)
79 (79928)
80 (387533)
81 (401526)
82 (400393)
83 (387534)
84 (336782)
85 (251425)
86 (435708)
87 (344032)
88 (404723)
89 (214154)

- 90 (214153)
- 91 (214152)
- 92 (214150)
- 93 (214149)

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

Date:	10/31/2001	(214146)	
Self Report?	YES		Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		..
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/26/2002	(15918)	
Self Report?	NO		Classification:
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)		..
Description:	Failure by the regulated entity to be under the direct supervision of a licensed water works operator.		
Self Report?	NO		Classification:
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		..
Description:	Failure to make available sanitary control easements for well 1 at the time of inspection.		
Self Report?	NO		Classification:
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		..
Description:	Failure to make available sanitary control easements for well 2 at the time of inspection.		
Date:	07/31/2001	(214136)	
Self Report?	YES		Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		..
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2004	(318986)	
Self Report?	YES		Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		..
	TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/06/2005	(435708)	
Self Report?	NO		Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		..
Rqmt Prov:	PERMIT IA		
Description:	Failure to maintain compliance with the permitted effluent limits for carbonaceous biochemical oxygen demand (CBOD), total suspended solids (TSS), ammonia-nitrogen (NH3-N), nickel (Ni), silver, phenols, total petroleum hydrocarbons (TPH), total chlorine residual (Cl2 res.), and dissolved oxygen (DO).		
Self Report?	NO		Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		..
Rqmt Prov:	PERMIT IA		
Description:	Failure to provide effluent violation notification letters in accordance with the permit requirements and applicable State regulations.		
Self Report?	NO		Classification:
Citation:	30 TAC Chapter 319, SubChapter A 319.5(b)		..
Rqmt Prov:	PERMIT IA		
Description:	Failure to monitor the effluent pH at outfall 001 at the frequency specified in the permit.		
Self Report?	NO		Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		..
Rqmt Prov:	PERMIT IA		
Description:	Failure to accurately calculate and report the daily average flows.		
Self Report?	NO		Classification:
			..

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: PERMIT IA

Description: Failure to report all of the required values on the Discharge Monitoring Reports (DMRs).

Self Report? NO

Classification:

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to store biomonitoring samples at 4 degrees C.

Date: 02/29/2004 (318989)

Self Report? YES

Classification:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2002 (214130)

Self Report? YES

Classification:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2003 (318991)

Self Report? YES

Classification:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2004 (318992)

Self Report? YES

Classification:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2001 (214126)

Self Report? YES

Classification:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2003 (318994)

Self Report? YES

Classification:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2004 (318995)

Self Report? YES

Classification:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2003 (214123)

Self Report? YES

Classification:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2003 (318998)

Self Report? YES

Classification:

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description:	TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter	
Date:	12/31/2003	(319005)
Self Report?	YES	Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter	
Date:	03/31/2004	(362123)
Self Report?	YES	Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter	
Date:	06/30/2004	(362124)
Self Report?	YES	Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter	
Date:	07/31/2004	(362125)
Self Report?	YES	Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter	
Date:	08/31/2004	(362126)
Self Report?	YES	Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter	
Date:	10/31/2004	(362128)
Self Report?	YES	Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Description:	TWC Chapter 26 26.121(a)[G] Failure to meet the limit for one or more permit parameter	
Date:	01/13/2005	(344032)
Self Report?	NO	Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT IA	
Description:	Failure to calibrate the Outfall 001 flow meter, as required.	
Self Report?	NO	Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT IA	
Description:	Failure to maintain compliance with the permitted effluent limits.	
Self Report?	NO	Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT IA	
Description:	Failure to collect grab samples for the required permit parameters at Outfall 001.	
Self Report?	NO	Classification:
Citation:	30 TAC Chapter 319, SubChapter A 319.11(a)	
	30 TAC Chapter 319, SubChapter A 319.11(b)	
Description:	Failure to collect the oil & grease samples at Outfall 006, as required.	
Self Report?	NO	Classification:
Citation:	30 TAC Chapter 319, SubChapter A 319.7(a)[G]	
	30 TAC Chapter 319, SubChapter A 319.7(c)	

Description:	Failure to calibrate the pH meter, as required.	Classification:
Self Report? NO	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT IA	
Description:	Failure to comply with the permitted effluent limits for Outfall 001.	
Self Report? NO		Classification:
Citation:	30 TAC Chapter 319, SubChapter A 319.11(b)
Description:	Failure to analyze the pH at Outfalls 003, 004, and 005 within the required hold time.	
Self Report? NO		Classification:
Citation:	30 TAC Chapter 319, SubChapter A 319.5(a)
Rqmt Prov:	PERMIT IA	
Description:	Failure to collect the pH sample for Outfall 006, when discharging.	
Date: 02/28/2005	(387533)	
Self Report? YES		Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date: 11/30/2004	(387534)	
Self Report? YES		Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	
Date: 11/30/2002	(214150)	
Self Report? YES		Classification:
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)
	TWC Chapter 26 26.121(a)[G]	
Description:	Failure to meet the limit for one or more permit parameter	

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
ENFORCEMENT ACTION
AGAINST SOUTHWEST
SHIPYARD, L.P.;
RN100248749**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2005-0097-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Southwest Shipyard, L.P. ("Southwest") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Southwest, represented by Eva Fromm O'Brien of the law firm of Fulbright & Jaworski, L.L.P., appear before the Commission and together stipulate that:

1. Southwest owns and operates a barge cleaning and repair facility located at 18310 Market Street, Channelview, Harris County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382 and the TCEQ rules.
3. The Commission and Southwest agree that the Commission has jurisdiction to enter this Agreed Order, and that Southwest is subject to the Commission's jurisdiction.
4. Southwest received notice of the violations alleged in Section II ("Allegations") on or about December 5, 2004 and February 18, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Southwest of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of forty-nine thousand one hundred twenty-three dollars (\$49,123.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Southwest has paid forty-nine thousand one hundred twenty-three dollars (\$49,123.00).
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 Southwest have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director of the TCEQ recognizes that on January 3, 2006, Southwest installed digital recorders for recording the gas flow and oxygen analysis at the barge cleaning flares FL-1 and FL-3.
10. The Executive Director of the TCEQ recognizes that on July 6, 2006, Southwest developed a new template for the accurate reporting of monthly reports for VOC emissions for the Barge Rail Painting Facility and Dry Docks DD1, DD2 and DD3STK.
11. The Executive Director of the TCEQ recognizes that on July 6, 2006, Southwest instituted the use of a compliance calendar to ensure that all deviations are captured.
12. 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 Southwest has not complied with one or more of the terms or conditions in this Agreed Order.
13. 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.
14. 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

1. Southwest is alleged to have violated:
 - a. 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1, by failing to comply

with the permitted effluent limits at Outfall 001 for the months of March 2003, July 2003, October 2003, November 2003, December 2003, January 2004 and February 2004, as documented during a record review conducted on October 5, 2004.

- b. 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1, by failing to comply with the permitted effluent limits at Outfall 003. Specifically, Southwest was non-compliant with the Total Suspended Solids (“TSS”) daily average limit of 50 milligrams per liter (“mg/L” for February 2004 with a reported value of 62 mg/L, as documented during a record review conducted on October 5, 2004.
- c. 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1, by failing to comply with the permitted effluent limits at Outfall 004 for the months of March 2003, May 2003, November 2003, December 2003, and February 2004, as documented during a record review conducted on October 5, 2004.
- d. 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1, by failing to comply with the permitted effluent limits at Outfall 005. Specifically, Southwest was non-compliant with the TSS daily average limit of 50 mg/L for August 2003 with a reported value of 90 mg/L, as documented during a record review conducted on October 5, 2004.
- e. 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1, by failing to comply with the permitted effluent limits at Outfall 006. Specifically, Southwest was non-compliant with the Chemical Oxygen Demand daily maximum limit of 150 mg/L for April 2003 with a reported value of 178 mg/L, as documented during a record review conducted on October 5, 2004.
- f. 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 2605, Effluent Limitation and Monitoring Requirement No. 1, by failing to comply with the Ammonia Nitrogen effluent limit of 6 mg/L at Outfall 001. Specifically, grab samples taken indicated the following Ammonia Nitrogen levels: 17 mg/L on July 10, 2001; 10.8 mg/L on October 1, 2001; and 11.2 mg/L on September 27, 2002, as documented during a record review conducted on October 5, 2004.

- g. 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), Federal Operating Permit No. O-1260, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to submit deviation reports for 2004 and for the first semiannual reporting period of 2005, as documented during an investigation conducted on November 29, 2005 through December 5, 2005.
 - h. 30 TEX. ADMIN. CODE §§ 122.143(4) and 116.115(c), Federal Operating Permit No. O-1260, Special Condition No. 10, New Source Review (“NSR”) Permit No. 9442, Special Condition No.11D, and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to install a continuous run time flow monitor to record average hourly values of flow and composition for Flares FL-1 and FL-3. Specifically, the average hourly values of flow and composition of the vent streams to Flares LF-1 and LF-3 were not recorded for the time period from January 1, 2004 through January 3, 2006, as documented during an investigation conducted on November 29, 2005 through December 5, 2005.
 - i. 30 TEX. ADMIN. CODE §§ 122.143(4) and 116.115(c), Federal Operating Permit No. O-1260, Special Condition No. 10, NSR Permit No. 36241, Special Condition No. 10C, and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to record and develop an accurate monthly report for VOC emissions in pounds per hour (“lbs/hr”) on a daily basis for the Barge Rail Painting Facility. Specifically, the VOC emissions rates in lbs/hr were not converted to a daily basis for Barge Rail Painting Stacks 1 and 2 and the Barge Rail Painting Fugitives for the period from January 1, 2004 through September 30, 2005, as documented during an investigation conducted on November 29, 2005 through December 5, 2005.
 - j. 30 TEX. ADMIN. CODE §§ 122.143(4) and 116.115(c), Federal Operating Permit No. O-1260, Special Condition No. 10, New Source Review (“NSR”) Permit No. 43774, Special Condition No. 16E, and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to record and develop an accurate monthly report for VOC emissions in lbs/hr on a daily basis for Dry Docks DD1, DD2 and DD3STK. Specifically, daily VOC emissions in lbs/hr were not calculated for the period of January 1, 2004 through September 30, 2005, as documented during an investigation conducted on November 29, 2005 through December 5, 2005.
2. Southwest generally denies each allegation in Section II (“Allegations”).

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Southwest pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Southwest'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 considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Southwest Shipyard, L.P., Docket No. 2005-0097-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. Southwest shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Southwest shall submit monthly reports and supporting data for VOC emissions for October 2005 through December 2005 for review;
 - b. Within 45 days after the effective date of this Agreed Order, Southwest shall submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.a.

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:

Linda Vasse, Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023

- c. Within 60 days after the effective date of this Agreed Order, Southwest shall submit written certification of compliance with the effluent limits of TPDES Permit No. 2605, excluding the total suspended solids daily average effluent limit. The certification shall include detailed supporting documentation including laboratory reports and monitoring records and shall be submitted in accordance with Ordering Provision No. 2.g.;
- d. Within 90 days after the effective date of this Agreed Order, prepare and submit a major permit amendment for the requested increase of the total suspended solids daily average limit, including any necessary monitoring data, technical reports, and/or administrative reports to:

Texas Commission on Environmental Quality
Wastewater Permitting Section, MC 148
P.O. Box 13087
Austin, Texas 78711-3087
- e. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;
- f. Within 360 days after the effective date of this Agreed Order, submit written certification, including detailed supporting documentation including laboratory reports and monitoring records to demonstrate compliance with new or existing total suspended solids daily average effluent limit applicable for TPDES Permit No. 2605; and

- g. Written certification required by Ordering Provisions 2.c. and 2.f. 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 certifications 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:

Mr. Stephen Smith, Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023

- 3 The provisions of this Agreed Order shall apply to and be binding upon Southwest. Southwest 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 Southwest 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, Southwest's failure to comply is not a violation of this Agreed Order. Southwest shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Southwest shall notify the Executive Director within seven days after Southwest 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 Southwest shall be made in writing to the Executive Director. Extensions are not effective until Southwest 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 Southwest 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Southwest, or three days after the date on which the Commission mails notice of the Order to Southwest, 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



For the Executive Director

1/16/07

Date

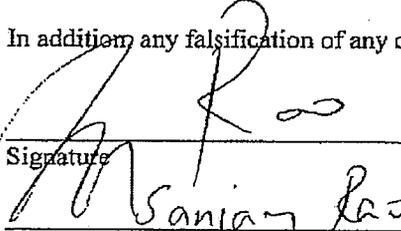
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that Southwest Shipyard, L.P.'s failure to comply with the Ordering Provisions, if any, in this order and/or Southwest Shipyard, L.P.'s failure to timely pay the penalty amount, may result in:

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

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

Signature


Sanjay Rao

Name (Printed or typed)
Authorized representative of
Southwest Shipyard, L.P.

Date

Title

11/10/06

President