

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1311-AIR-E **TCEQ ID:** RN100818863 **CASE NO.:** 30780
RESPONDENT NAME: Southwestern Industrial Contractors and Riggers, Inc.

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 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 type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: SW Industrial, 7155 Industrial Avenue, El Paso, El Paso County

TYPE OF OPERATION: Gasoline dispensing station

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 22, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. John Muennink, Enforcement Division, Enforcement Section III, MCR-14, (361) 825-3423; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Local Program Investigator: Mr. Pete Balderrama, Investigator, El Paso City-County Health and Environmental District, 5115 El Paso Drive, El Paso, Texas 79905

Respondent: Mr. Bill Fiske, President, Southwestern Industrial Contractors and Riggers, Inc., 7155 Industrial Avenue, El Paso, Texas 79915

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 13, 2006</p> <p>Date of NOE Relating to this Case: August 10, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p>AIR</p> <p>Failed to comply with the 7.0 pounds per square inch absolute ("psia") maximum Reid Vapor Pressure ("RVP") requirement for gasoline transferred during the control period of June 1, 2006 through September 16, 2006 in El Paso County. Specifically, gasoline samples taken from the unleaded gasoline pump on June 13, 2006 had a RVP exceeding the maximum 7.0 psia [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.083(b)].</p>	<p>Total Assessed: \$1,200</p> <p>Total Deferred: \$240 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$960</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, establish and implement procedures designed to ensure the RVP for gasoline dispensed between June 1 and September 16 of each year shall not exceed 7.0 psia at the Station; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision a.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision April 25, 2006

DATES	Assigned	14-Aug-2006	Screening	15-Aug-2006	EPA Due	
	PCW	16-Aug-2006				

RESPONDENT/FACILITY INFORMATION					
Respondent	Southwestern Industrial Contractors and Riggers, Inc.				
Reg. Ent. Ref. No.	RN100818863				
Facility/Site Region	6-EI Paso	<	Major/Minor Source	Minor Source	<

CASE INFORMATION					
Enf./Case ID No.	30780	No. of Violations	1		
Docket No.	2006-1311-AIR-E	Order Type	1660	<	
Media Program(s)	Air Quality	Enf. Coordinator	John Muennink		
Multi-Media		EC's Team	Enforcement Team 6		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 20% Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability No < 0% Enhancement **Subtotal 4**

Notes

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

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

Notes

Economic Benefit 0% Enhancement* **Subtotal 6**

Total EB Amounts	<input type="text" value="\$10"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$250"/>	

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL 20% Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 15-Aug-2006 **Docket No.** 2006-1311-AIR-E **PCW**
Respondent Southwestern Industrial Contractors and Riggers, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 30780 *PCW Revision April 25, 2006*
Reg. Ent. Reference No. RN100818863
Media [Statute] Air Quality
Enf. Coordinator John Muennink

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	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 disclosed)</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%
Other	<i>Please Enter Yes or No</i>		
	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) 20%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement due to one 1660 Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date	15-Aug-2006	Docket No.	2006-1311-AIR-E	PCW
Respondent	Southwestern Industrial Contractors and Riggers, Inc.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	30780	<i>PCW Revision April 25, 2006</i>		
Reg. Ent. Reference No.	RN100818863			
Media [Statute]	Air Quality			
Enf. Coordinator	John Muennink			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.252(2)			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to comply with the 7.0 pounds per square inch absolute ("psia") maximum Reid Vapor Pressure ("RVP") requirement for gasoline transferred during the control period of June 1, 2006 through September 16, 2006 in El Paso County. Specifically, gasoline samples taken from the unleaded gasoline pump on June 13, 2006 had a RVP exceeding the maximum 7.0 psia.			

Base Penalty

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

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

>> **Programmatic Matrix**

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

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events Number of violation days

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

One single event is recommended.

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 Southwestern Industrial Contractors and Riggers, Inc.
Case ID No. 30780
Reg. Ent. Reference No. RN100818863
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	\$250	13-Jun-2006	15-Apr-2007	0.8	\$10	n/a	\$10
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 Estimated cost of implementing procedures to ensure the required RVP is maintained. Date required is the date of the investigation. Final date is the estimated date of compliance.

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$250 TOTAL \$10

Compliance History

Customer/Respondent/Owner-Operator:	CN600891790 Southwestern Industrial Contractors and Riggers, Inc.	Classification: AVERAGE	Rating: 7.50
Regulated Entity:	RN100818863 SW INDUSTRIAL	Classification: AVERAGE	Site Rating: 7.50
ID Number(s):	AIR NEW SOURCE PERMITS PETROLEUM STORAGE TANK REGISTRATION	ACCOUNT NUMBER REGISTRATION	EE1696N 12052
Location:	7155 INDUSTRIAL AVE, EL PASO, TX, 79915	Rating Date: September 01 05 Repeat Violator: NO	
TCEQ Region:	REGION 06 - EL PASO		
Date Compliance History Prepared:	August 15, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 15, 2001 to August 15, 2006		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>John Muennink</u>	Phone:	<u>(361) 825-3423</u>

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? | <u>N/A</u> |
| 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: 06/27/2005	ADMINORDER 2004-0857-PST-E
Classification: Moderate	

Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)
30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)

Description: make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST(s).

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(4)(A)(vii)
30 TAC Chapter 334, SubChapter A 334.8(c)(5)(B)(ii)

Description: Failure to renew a previously issued UST delivery certificate.

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 | 08/14/2002 | (3252) |
| 2 | 12/17/2003 | (256592) |
| 3 | 08/08/2006 | (497146) |
| 4 | 08/03/2004 | (284780) |
| 5 | 03/27/2002 | (75180) |
| 6 | 11/08/2001 | (75179) |
| 7 | 06/24/2005 | (397137) |
| 8 | 11/29/2005 | (438759) |
| 9 | 05/07/2004 | (249862) |

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SOUTHWESTERN INDUSTRIAL
CONTRACTORS AND RIGGERS,
INC.
RN100818863**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-1311-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Southwestern Industrial Contractors and Riggers, Inc. ("SW Industrial") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and SW Industrial appear before the Commission and together stipulate that:

1. SW Industrial owns and operates a gasoline dispensing station at 7155 Industrial Avenue in El Paso, El Paso County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and SW Industrial agree that the Commission has jurisdiction to enter this Agreed Order, and that SW Industrial is subject to the Commission's jurisdiction.
4. SW Industrial received notice of the violations alleged in Section II ("Allegations") on or about August 15, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by SW Industrial of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Two Hundred Dollars (\$1,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). SW Industrial has paid Nine Hundred Sixty Dollars (\$960) of the administrative penalty and Two Hundred Forty Dollars (\$240) is deferred contingent upon SW Industrial's timely and satisfactory

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for ensuring transparency and accountability in the organization's operations.

2. The second part of the document outlines the various methods and tools used to collect and analyze data. It highlights the need for consistent data collection procedures and the use of appropriate statistical techniques to interpret the results.

3. The third part of the document focuses on the implementation of quality control measures. It describes how regular audits and inspections can help identify and correct any deviations from the established standards and procedures.

4. The fourth part of the document discusses the role of training and development in ensuring that all staff members are equipped with the necessary skills and knowledge to perform their duties effectively.

5. The fifth part of the document addresses the issue of communication and collaboration. It stresses the importance of clear communication channels and regular meetings to ensure that all team members are informed and working towards common goals.

6. The sixth part of the document discusses the need for continuous improvement. It explains how regular reviews and evaluations can help identify areas for improvement and implement changes to enhance the organization's performance.

7. The seventh part of the document focuses on the importance of maintaining a positive and productive work environment. It describes how effective leadership and team dynamics can contribute to the overall success of the organization.

8. The eighth part of the document discusses the role of technology in modern organizations. It highlights how the use of digital tools and systems can streamline processes and improve efficiency.

9. The ninth part of the document addresses the issue of risk management. It explains how identifying and mitigating potential risks can help protect the organization's assets and ensure its long-term sustainability.

10. The tenth part of the document discusses the importance of ethical conduct and integrity in the workplace. It emphasizes that ethical behavior is not only a moral obligation but also a key factor in building trust and credibility with stakeholders.

compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If SW Industrial fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require SW Industrial to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and SW Industrial have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 SW Industrial has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, SW Industrial is alleged to have failed to comply with the 7.0 pounds per square inch absolute ("psia") maximum Reid Vapor Pressure ("RVP") requirement for gasoline transferred during the control period of June 1, 2006 through September 16, 2006 in El Paso County, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 13, 2006. Specifically, gasoline samples taken from the unleaded gasoline pump on June 13, 2006 had a RVP exceeding the maximum 7.0 psia.

III. DENIALS

SW Industrial generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that SW Industrial pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and SW Industrial's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty

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payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Southwestern Industrial Contractors and Riggers, Inc., Docket No. 2006-1311-AIR-E" to:

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

2. It is further ordered that SW Industrial shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, establish and implement procedures designed to ensure the RVP for gasoline dispensed between June 1 and September 16 of each year shall not exceed 7.0 psia at the Station; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision 2.a. as described below:

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:

Manager, Air Section
El Paso Regional Office
Texas Commission on Environmental Quality
401 E. Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

3. The provisions of this Agreed Order shall apply to and be binding upon SW Industrial. SW Industrial is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If SW Industrial 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, SW Industrial's failure to comply is not a violation of this Agreed Order. SW Industrial shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. SW Industrial shall notify the Executive Director within seven days after SW Industrial 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 SW Industrial shall be made in writing to the Executive Director. Extensions are not effective until SW Industrial 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 SW Industrial in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to SW Industrial, or three days after the date on which the Commission mails notice of the Order to SW Industrial, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SECRET

[The following text is extremely faint and largely illegible. It appears to be a multi-paragraph document, possibly a report or memorandum, containing various lines of text and possibly some headings or sub-sections. The content is too light to transcribe accurately.]

SECRET

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

2/8/07

Date

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

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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



Signature

OCTOBER 26, 2006

Date

BILL C. FISKE

Name (Printed or typed)
Authorized Representative of
Southwestern Industrial Contractors and Riggers, Inc.

PRESIDENT

Title

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

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