EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1299-IHW-E **TCEQ ID:** RN100542224 **CASE NO.:** 30762

RESPONDENT NAME: Nova Chemicals Inc.

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	X INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Nova Chemicals Bayport Site, 12222 Port Drive, Pasadena, Harris County

TYPE OF OPERATION: Ethyl benzene and a styrene monomer manufacturing plant

SMALL BUSINESS: ___ Yes __X__ No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, Enforcement Division, MC 219, (512) 239-1768

TCEQ Enforcement Coordinator: Ms. Dana Shuler, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-2505; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. David Kingsbury, Responsible Care Leader, Nova Chemicals Inc., 12222 Port Drive, Pasadena, Texas 77507
Mr. Jay Hasche, Technical Leader, Nova Chemicals Inc., 12222 Port Drive, Pasadena, Texas 77507

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

RESPONDENT'S NAME: Nova Chemicals Inc.
DOCKET NO.: 2006-1299-IHW-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** June 5, 2006 **Date of NOE Relating to this Case:** July 14, 2006 (NOE) **Background Facts:** This was a routine investigation. Four violations were documented. **WASTE** 1) Failed to properly classify waste. Specifically, the cooling tower sludge waste stream (00013192) shipment on March 22, 2006 was classified as a Class 2 non-hazardous waste when it was actually a Class 1 non-hazardous waste [30 TEX. ADMIN. CODE § 335.62]. 2) Failed to update the Notice of Registration ("NOR"). Specifically, the on/off-site management for waste streams 00073101 and 0044319H were not indicated and, for waste stream 2001117H, "no" was not indicated under new chemical substance [30 TEX. ADMIN. CODE § 335.6(c)]. 3) Failed to properly manifest waste. Specifically, on March 22, 2006, a 20 cubic yard shipment of a Class 1 waste was manifested on a non-hazardous special waste manifest instead of a Uniform Hazardous Waste Manifest when shipped to the Galveston County landfill [30 TEX. ADMIN. CODE § 335.10(a)]. 4) Failed to prevent the disposal of waste at an unauthorized facility. Specifically, Nova Chemicals disposed a 20 cubic yard shipment of Class 1 non-hazardous cooling tower sludge waste (00013192) on March 22, 2006 at Galveston County Landfill which is only authorized to accept Class 2 non-hazardous waste [30 TEX. ADMIN. CODE § 335.2(b)].	**Total Assessed:** $5,814 **Total Deferred:** $1,163 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $2,325 **Total Paid to General Revenue:** $2,326 **Site Compliance History Classification:** __High _X_ Avg. __Poor **Person Compliance History Classification:** __High _X_ Avg. __Poor **Major Source:** _X_ Yes __ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that Nova Chemicals has implemented the following corrective measures at the Facility: a. The cooling tower sludge waste stream 00013192 was properly classified as a Class 1 waste on the NOR, on April 4, 2006; b. On June 7, 2006, documentation was received to demonstrate proof that the NOR is up-to-date; c. Documentation regarding actions taken to ensure waste are properly classified and manifested was received on June 14, 2006; and d. On April 14, 2006, the unauthorized waste and surrounding contaminated area was completely removed from the Galveston County landfill and properly disposed of at BFI-Gulfwest Landfill, which is authorized to accept Class 1 waste. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A).

Attachment A
Docket Number: 2006-1299-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Nova Chemicals Inc.**
Payable Penalty Amount:	**Four Thousand Six Hundred Fifty-One Dollars ($4,651)**
SEP Amount:	**Two Thousand Three Hundred Twenty-Five Dollars ($2,325)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Armand Bayou Nature Center Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project**
Location of SEP:	**Harris County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to pay for the labor and materials costs associated with conducting prescribed burns, removing non-native trees, and for planting native trees and plants.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by increasing ecosystem functionality. It will contribute to the overall prairie health by suppressing invasive brush species, increasing soil fertility, and promoting plant vigor.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Armand Bayou Nature Center
Attn: Mark Kramer
PO Box 58828
Houston, Texas 77258

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES **Assigned** 17-Jul-2006
PCW 12-Sep-2006 **Screening** 27-Jul-2006 **EPA Due** 22-Nov-2006

RESPONDENT/FACILITY INFORMATION

Respondent Nova Chemicals Inc.
Reg. Ent. Ref. No. RN100542224
Facility/Site Region 12-Houston **Major/Minor Source** Major Source

CASE INFORMATION

Enf./Case ID No. 30762 **No. of Violations** 4
Docket No. 2006-1299-IHW-E **Order Type** 1660
Media Program(s) Industrial and Hazardous Waste **Enf. Coordinator** Dana Shuler
Multi-Media **EC's Team** Enforcement Team 8
Admin. Penalty $ Limit Minimum $0 **Maximum** $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) ***Subtotal 1*** $7,600

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 39% Enhancement ***Subtotals 2, 3, & 7*** $2,964

Notes: The Respondent received one NOV for a same or similar violation, eight NOVs for dissimilar violations, one agreed order, and two audits.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction ***Subtotal 5*** -$1,900

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

Notes: The Respondent came into compliance with all violations on June 14, 2006.

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

**Capped at the Total EB $ Amount*

Total EB Amounts $94
Approx. Cost of Compliance $1,750

SUM OF SUBTOTALS 1-7 **Final Subtotal** $8,664

OTHER FACTORS AS JUSTICE MAY REQUIRE 33% Reduction **Adjustment** -$2,850

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

Notes: Other factors has been adjusted to reflect a 50 percent reduction on self-reported violations 1 & 4.

Final Penalty Amount $5,814

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** $5,814

DEFERRAL 20% Reduction **Adjustment** -$1,163

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $4,651

Screening Date 27-Jul-2006 **Docket No.** 2006-1299-IHW-E **PCW**

Respondent Nova Chemicals Inc. *Policy Revision 2 (September 2002)*

Case ID No. 30762 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN100542224

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action *(number of NOVs meeting criteria)*	1	5%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	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 *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **39%**

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

No <

Adjustment Percentage (Subtotal 3) **0%**

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

Average Performer <

Adjustment Percentage (Subtotal 7) **0%**

>> **Compliance History Summary**

Compliance History Notes The Respondent received one NOV for a same or similar violation, eight NOVs for dissimilar violations, one agreed order, and two audits.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **39%**

Screening Date 27-Jul-2006 **Docket No.** 2006-1299-IHW-E **PCW**

Respondent Nova Chemicals Inc. *Policy Revision 2 (September 2002)*

Case ID No. 30762 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN100542224

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 335.62

Secondary Rule Cite(s)

Violation Description Failure to properly classify waste, as documented during an investigation conducted on June 5, 2006. Specifically, the cooling tower sludge waste stream (00013192) shipment on March 22, 2006 was classified as a Class 2 non-hazardous waste when it was actually a Class 1 non-hazardous waste.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants as a result of this violation.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty $2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $1,912

This violation Final Assessed Penalty (adjusted for limits) $1,912

Economic Benefit Worksheet

Respondent Nova Chemicals Inc.
Case ID No. 30762
Reg. Ent. Reference No. RN100542224
Media [Statute] Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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	$500	22-Mar-2006	04-Apr-2006	0.0	$1	n/a	$1
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 costs to accurately classify waste for waste stream (00013192). Date required is the date the inaccurate classification was discovered and final date is the 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: $500

TOTAL: $1

Screening Date 27-Jul-2006 **Docket No.** 2006-1299-IHW-E **PCW**

Respondent Nova Chemicals Inc. *Policy Revision 2 (September 2002)*

Case ID No. 30762 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN100542224

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Violation Number 2

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

Secondary Rule Cite(s)

Violation Description Failure to update the Notice of Registration (NOR), as documented during an investigation conducted on June 5, 2006. Specifically, the on/off-site management for waste streams 00073101 and 0044319H were not indicated and, for waste stream 2001117H, "no" was not indicated under new chemical substance.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment -$9,900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 1

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

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $76

This violation Final Assessed Penalty (adjusted for limits) $76

Economic Benefit Worksheet

Respondent Nova Chemicals Inc.
Case ID No. 30762
Reg. Ent. Reference No. RN100542224
Media [Statute] Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)	$200	05-Jun-2006	07-Jun-2006	0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to keep NOR up-to-date and submit a current NOR. Date required is the date of the investigation and final date is the 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 $200

TOTAL $0

Screening Date 27-Jul-2006 **Docket No.** 2006-1299-IHW-E **PCW**

Respondent Nova Chemicals Inc. *Policy Revision 2 (September 2002)*

Case ID No. 30762 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN100542224

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 335.10(a)

Secondary Rule Cite(s)

Violation Description Failure to properly manifest waste, as documented during an investigation conducted on June 5, 2006. Specifically, on March 22, 2006, a 20 cubic yard shipment of a Class 1 waste was manifested on a non-hazardous special waste manifest instead of a Uniform Hazardous Waste Manifest when shipped to the Galveston County landfill.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 25%

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

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty $2,500

One single event is recommended (one per shipment).

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $1,912

This violation Final Assessed Penalty (adjusted for limits) $1,912

Economic Benefit Worksheet

Respondent Nova Chemicals Inc.
Case ID No. 30762
Reg. Ent. Reference No. RN100542224
Media [Statute] Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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	$50	05-Jun-2006	14-Jun-2006	0.0	$0	$1	$1
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 to ensure that the correct manifest form is being used. Date required is the date of the investigation and final date is the date of compliance.						

Approx. Cost of Compliance $50

TOTAL $1

Screening Date 27-Jul-2006 **Docket No.** 2006-1299-IHW-E **PCW**

Respondent Nova Chemicals Inc. *Policy Revision 2 (September 2002)*

Case ID No. 30762 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN100542224

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 335.2(b)

Secondary Rule Cite(s)

Violation Description Failure to prevent the disposal of waste at an unauthorized facility, as documented during an investigation conducted on June 5, 2006. Specifically, the respondent disposed a 20 cubic yard shipment of Class 1 non-hazardous cooling tower sludge waste (00013192) on March 22, 2006 at Galveston County Landfill which is only authorized to accept Class 2 non-hazardous waste.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants as a result of this violation.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One event is recommended (one event per shipment).

Economic Benefit (EB) for this violation

Estimated EB Amount $92

Statutory Limit Test

Violation Final Penalty Total $1,912

This violation Final Assessed Penalty (adjusted for limits) $1,912

Economic Benefit Worksheet

Respondent Nova Chemicals Inc.
Case ID No. 30762
Reg. Ent. Reference No. RN100542224
Media [Statute] Industrial and Hazardous Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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	$1,000	13-Mar-2006	14-Apr-2006	0.1	$4	$88	$92
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	Estimated cost to send waste to an authorized disposal facility calculated from the date in which the violation event occurred to the date of compliance.						

Approx. Cost of Compliance $1,000

TOTAL $92

Compliance History

Customer/Respondent/Owner-Operator:	CN601356132	Nova Chemicals Inc.	Classification: AVERAGE	Rating: 1.28
Regulated Entity:	RN100542224	NOVA CHEMICALS BAYPORT SITE	Classification: AVERAGE	Site Rating: 1.28

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HG3307M
AIR OPERATING PERMITS	PERMIT	1625
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD987985678
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	39186
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011650
AIR NEW SOURCE PERMITS	PERMIT	5252
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG3307M
AIR NEW SOURCE PERMITS	AFS NUM	4820101296
AIR NEW SOURCE PERMITS	PERMIT	22013
AIR NEW SOURCE PERMITS	PERMIT	23515
AIR NEW SOURCE PERMITS	REGISTRATION	76216
AIR NEW SOURCE PERMITS	PERMIT	55768
AIR NEW SOURCE PERMITS	REGISTRATION	76714
AIR NEW SOURCE PERMITS	REGISTRATION	79032
AIR NEW SOURCE PERMITS	REGISTRATION	80170
STORMWATER	PERMIT	TXR05P319
STORMWATER	PERMIT	TXR05U114
WATER LICENSING	LICENSE	1011650
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	39186

Location: 12222 PORT DR, PASADENA, TX, 77507 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 26, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 15, 2001 to September 15, 2006

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

Name: Dana Shuler Phone: (512) 239-2505

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: 08/20/2006 ADMINORDER 2006-0355-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: No. 5252, Special Condition No. 1 PERMIT
Description: Failed to prevent an avoidable emissions event.

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 12/21/2001 (80993)
2 02/04/2002 (80994)
3 03/14/2002 (80995)

4	05/28/2002	(1742)
5	05/30/2002	(80996)
6	06/10/2002	(2346)
7	08/23/2002	(5911)
8	05/12/2003	(35179)
9	10/13/2003	(118895)
10	03/17/2004	(250412)
11	04/30/2004	(270749)
12	07/09/2004	(280315)
13	07/09/2004	(280536)
14	07/30/2004	(281876)
15	07/30/2004	(283059)
16	07/30/2004	(283344)
17	07/30/2004	(285941)
18	07/30/2004	(282858)
19	07/30/2004	(281569)
20	07/30/2004	(284619)
21	08/06/2004	(287144)
22	08/06/2004	(287153)
23	08/10/2004	(288716)
24	08/11/2004	(289084)
25	08/12/2004	(289599)
26	08/19/2004	(289775)
27	09/01/2004	(284163)
28	09/02/2004	(277052)
29	09/02/2004	(291916)
30	09/03/2004	(290785)
31	09/08/2004	(289999)
32	09/08/2004	(288948)
33	09/09/2004	(291518)
34	11/05/2004	(333829)
35	11/05/2004	(334568)
36	11/22/2004	(337393)
37	12/22/2004	(341737)
38	12/29/2004	(345174)
39	01/24/2005	(333969)
40	01/26/2005	(337394)
41	07/27/2005	(401527)
42	07/29/2005	(401353)
43	08/02/2005	(402995)
44	08/05/2005	(403946)
45	08/08/2005	(401324)
46	08/10/2005	(403983)
47	08/12/2005	(404809)
48	08/15/2005	(398775)
49	08/15/2005	(398560)
50	08/15/2005	(398764)
51	08/15/2005	(398639)
52	08/16/2005	(405183)
53	08/18/2005	(406032)
54	08/18/2005	(405755)
55	08/29/2005	(418391)
56	08/29/2005	(418313)
57	09/06/2005	(418724)
58	09/15/2005	(431888)
59	10/31/2005	(434910)
60	01/26/2006	(450246)
61	02/24/2006	(454930)
62	02/28/2006	(453857)
63	02/28/2006	(453923)
64	02/28/2006	(454853)
65	03/21/2006	(452277)
66	04/27/2006	(453637)
67	05/31/2006	(465230)
68	07/14/2006	(481248)
69	09/01/2006	(462824)

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

Date: 03/17/2004 (250412)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db 60.49b(c)(3)

Rqmt Prov: PERMIT 5252

Description: Failure to get the approval for alternate monitoring plan for NOx emissions monitoring for the boiler HB-1301-P

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)

Description: Failure to make the notations in the flare operation log regarding the flare (EPN: FL) observations for 64 days for the period, April 2003 to December 2003.

Date: 09/02/2004 (277052)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)[G]

Description: Failure to maintain an up-to-date Notice of Registration.

Date: 12/23/2004 (341737)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PA TCEQ Air Permit #5252, SC #1

Description: Nova Chemicals, Inc. failed to prevent a level instrument malfunction.

Date: 01/27/2005 (337394)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db 60.48b(b)(1)

Rqmt Prov: PERMIT SC 2

Description: Nox alternative monitoring system failed to meet the Relative Accuracy (RA) criteria of 20% for the Mean Reference Sample Method and 10% when compared to the Applicable Standard of 0.20 lb/MMBtu at 0% O2. This test indicated 36.0% and 13.9% respectively.

Date: 08/08/2005 (401324)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 5252, SC No.1

Description: Failure to maintain the NOx and CO emissions from the heater HS-201/219 within the pounds per hour limit of the permit 5252 dated August 12, 2003 during the certification period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 5252, SC No. 9E

Description: Failure to cap or plug 18 open ended lines during the certification period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP O-01625, SC No. 3A(iii)

Description: Failure to conduct the quarterly opacity observation during the the last quarter of certification period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.271(a)(5)(i)
40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.271(a)(5)(v)

Description: Failure to equip the ladder opening and emergency roof drain with proper seal without any gaps.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter A 101.20(2)
40 CFR Part 60, Subpart RRR 60.703(c)(1)(ii)
40 CFR Part 61, Subpart FF 61.349(a)(1)(ii)(B)

Description: Failure to car seal closed the by pass line valves without flow indicator during the certification period.

Date: 01/27/2006 (450246)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Nova Chemicals Inc. Bayport (Nova) failed to control the flow rates to the HB-301S burner resulting in an opacity of 25 percent (%) to the atmosphere.

Date: 02/28/2006 (453923)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT No. 5252, Special Condition No. 1
Description: Nova Chemicals Inc. Bayport (Nova) failed to prevent the AS-107 from over pressuring.

Date: 02/28/2006 (453857)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Rqmt Prov: PERMIT No. 5252, Special Condition No. 1
Description: Nova Chemicals Inc. Bayport (Nova) failed to prevent relief valve RV-4122 from discharging.

Date: 04/26/2006 (453637)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Nova Chemicals Inc. Bayport (Nova) failed to prevent excess oxygen and fuel gas flow to the HS-201/219 heaters.

F. Environmental audits.

Notice of Intent Date: 08/10/2006 (511421)
No DOV Associated

Notice of Intent Date: 08/10/2006 (511449)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
NOVA CHEMICALS INC.	§	
RN100542224	§	**ENVIRONMENTAL QUALITY**
	§	

AGREED ORDER
DOCKET NO. 2006-1299-IHW-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 Nova Chemicals Inc. ("Nova Chemicals") under the authority of the TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Nova Chemicals appear before the Commission and together stipulate that:

1. Nova Chemicals owns and operates an ethyl benzene and a styrene monomer manufacturing plant at 12222 Port Drive in Pasadena, Harris County, Texas (the "Facility").

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

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

4. Nova Chemicals received notice of the violations alleged in Section II ("Allegations") on or about July 19, 2006.

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

6. An administrative penalty in the amount of Five Thousand Eight Hundred Fourteen Dollars ($5,814) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nova Chemicals has paid Two Thousand Three Hundred Twenty-Six Dollars ($2,326) of the administrative penalty and One Thousand One Hundred Sixty-Three Dollars ($1,163) is deferred contingent upon Nova Chemicals' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Nova Chemicals fails to timely and satisfactorily comply with all requirements of

this Agreed Order, the Executive Director may require Nova Chemicals to pay all or part of the deferred penalty. Two Thousand Three Hundred Twenty-Five Dollars ($2,325) shall be conditionally offset by Nova Chemicals' completion of a Supplemental Environmental Project.

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 Nova Chemicals have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Nova Chemicals has implemented the following corrective measures at the Facility:

   a. The cooling tower sludge waste stream 00013192 was properly classified as a Class 1 waste on the Notice of Registration ("NOR"), on April 4, 2006;

   b. On June 7, 2006, documentation was received to demonstrate proof that the NOR is up-to-date;

   c. Documentation regarding actions taken to ensure waste are properly classified and manifested was received on June 14, 2006; and

   d. On April 14, 2006, the unauthorized waste and surrounding contaminated area was completely removed from the Galveston County landfill and properly disposed of at BFI-Gulfwest Landfill, which is authorized to accept Class 1 waste.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Nova Chemicals has not complied with one or more of the terms or conditions in this Agreed Order.

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

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

II. ALLEGATIONS

As owner and operator of the Facility, Nova Chemicals is alleged to have:

1. Failed to properly classify waste, in violation of 30 TEX. ADMIN. CODE § 335.62, as documented during an investigation conducted on June 5, 2006. Specifically, the cooling tower sludge waste

stream (00013192) shipment on March 22, 2006 was classified as a Class 2 non-hazardous waste when it was actually a Class 1 non-hazardous waste.

2. Failed to update the NOR, in violation of 30 TEX. ADMIN. CODE § 335.6(c), as documented during an investigation conducted on June 5, 2006. Specifically, the on/off-site management for waste streams 00073101 and 0044319H were not indicated and, for waste stream 2001117H, "no" was not indicated under new chemical substance.

3. Failed to properly manifest waste, in violation of 30 TEX. ADMIN. CODE § 335.10(a), as documented during an investigation conducted on June 5, 2006. Specifically, on March 22, 2006, a 20 cubic yard shipment of a Class 1 waste was manifested on a non-hazardous special waste manifest instead of a Uniform Hazardous Waste Manifest when shipped to the Galveston County landfill.

4. Failed to prevent the disposal of waste at an unauthorized facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b), as documented during an investigation conducted on June 5, 2006. Specifically, Nova Chemicals disposed a 20 cubic yard shipment of Class 1 non-hazardous cooling tower sludge waste (00013192) on March 22, 2006 at Galveston County Landfill which is only authorized to accept Class 2 non-hazardous waste.

III. DENIALS

Nova Chemicals generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Nova Chemicals pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Nova Chemicals' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Nova Chemicals Inc., Docket No. 2006-1299-IHW-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. Nova Chemicals shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Three Hundred Twenty-Five Dollars ($2,325) of the assessed administrative penalty shall be offset with the condition that Nova Chemicals implement the SEP defined in Attachment A, incorporated herein by reference. Nova Chemicals' obligation to pay the conditionally offset portion

of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

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

3/7/07
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

11/14/06
Date

JAY HASCHE
Name (Printed or typed)
Authorized Representative of
Nova Chemicals Inc.

TECHNICAL LEADER
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.

Attachment A
Docket Number: 2006-1299-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Nova Chemicals Inc.**
Payable Penalty Amount:	**Four Thousand Six Hundred Fifty-One Dollars ($4,651)**
SEP Amount:	**Two Thousand Three Hundred Twenty-Five Dollars ($2,325)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Armand Bayou Nature Center Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project**
Location of SEP:	**Harris County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to pay for the labor and materials costs associated with conducting prescribed burns, removing non-native trees, and for planting native trees and plants.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by increasing ecosystem functionality. It will contribute to the overall prairie health by suppressing invasive brush species, increasing soil fertility, and promoting plant vigor.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Armand Bayou Nature Center
Attn: Mark Kramer
PO Box 58828
Houston, Texas 77258

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.