# EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.:** 2006-1397-AIR-E **TCEQ ID:** RN100922392 **CASE NO.:** 30898

**RESPONDENT NAME:** Chambers County

## 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 | X AIR | __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:** Chambers County Resource Recovery & Recycling Center, 7505 US Highway 65, Anahuac, Chambers County

**TYPE OF OPERATION:** Municipal solid waste/medical waste disposal

**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. Rebecca Johnson, Enforcement Division, Enforcement Section III, MC R-12, (713) 422-8931; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**TCEQ Field Investigator:** Mr. Terry Vasut, Houston Regional Office, MC R-12, (713) 767-3718

**Respondent:** The Honorable Jimmy Sylvia, County Judge, Chambers County, P.O. Box 839, Anahuac, Texas 77514
Mr. Jimmy Kahla, Director, Solid Waste Department, Chambers County, P.O. Box 839, Anahuac, Texas 77514

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

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:** __ Complaint ___ Routine<br>__ Enforcement Follow-up _X_ Records Review<br><br>**Date of Complaint Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** March 20, 2006<br><br>**Date of NOE Relating to this Case:** August 4, 2006 (NOE)<br><br>**Background Facts:** This was a routine record review. Two violations were documented.<br><br>**AIR**<br><br>1) Failed to ensure that the incinerator is not operated in a substandard condition to ensure compliance with the hydrogen chloride limit of 15 parts per million by volume (ppmv) at 7% oxygen or maintain a 99% destruction efficiency for the incinerator. Specifically, a March 20, 2006 investigation documented low lime injection feed rates on July 3, 2005, November 24, 2005, November 26, 2005, November 27, 2005, November 28, 2005, November 29, 2005, and November 30, 2005. In addition, annual performance testing of the incinerator conducted on October 27, 2004 documented hydrogen chloride emissions of 17.8 ppmv at 7% oxygen and a destruction efficiency of 97.5% [30 TEX. ADMIN. CODE §§ 116.115(c), 101.20(1), Air Permit No. 24247, Special Condition Nos. 10.A., 14.A., and 29, 40 CODE OF FEDERAL REGULATIONS § 60.52c(a) and (d)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b)].<br><br>2) Failed to conduct annual performance testing of the incinerator within twelve months following the previous performance test conducted on October 29, 2004. Specifically, the next annual performance testing of the incinerator was not conducted until December 12, 2005 [30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 24247, Special Condition No. 29, 40 CODE OF FEDERAL REGULATIONS § 60.56c(c)(1) and (2), and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | **Total Assessed:** $4,950<br><br>**Total Deferred:** $990<br>_X_ Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $3,960<br><br>**Total Paid (Due) to General Revenue:** $0<br><br>**Site Compliance History Classification:** __High _X_ Avg. __Poor<br><br>**Person Compliance History Classification:** __High _X_ Avg. __Poor<br><br>**Major Source:** ___ Yes _X_ No<br><br>**Applicable Penalty Policy:** September 2002 | **Corrective Actions Taken:**<br><br>1) The Executive Director recognizes that the County has implemented the following corrective measures at the Plant:<br><br>a. Inspected the lime feeder system gaskets on March 3, 2005 for cracks, and replaced and reinforced the gaskets to ensure a closed system under negative pressure;<br><br>b. Inspected the lime surge bin for tight seals on September 2, 2005 to prevent water from getting in and dust getting out, and added this type inspection to the maintenance work order system to automatically generate an inspection order on a 60 day cycle;<br><br>c. Updated operating system on October 1, 2005 to set the lime feed rates at 35% above permitted limits to accommodate fluctuations in the feeder flow and re-set the low level alarm set points to 30% of permitted limits to give early notification of potential blockage;<br><br>d. Demonstrated a 99% removal efficiency through annual performance testing of the incinerator conducted on December 12, 2005; and<br><br>e. Conducted annual performance testing of the incinerator on December 12, 2005, after obtaining an extension to December 8, 2005 from the Environmental Protection Agency.<br><br>**Ordering Provisions:**<br><br>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A). |

**Attachment A**
**Docket Number: 2006-1397-AIR-E**

## SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|---|---|
| **Respondent:** | **Chambers County** |
| **Payable Penalty Amount:** | **Three Thousand Nine Hundred Sixty Dollars ($3,960)** |
| **SEP Amount:** | **Three Thousand Nine Hundred Sixty Dollars ($3,960)** |
| **Type of SEP:** | **Pre-approved** |
| **Third-Party Recipient:** | **Galveston Bay Foundation-"Marsh Mania"** |
| **Location of SEP:** | **Chambers 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 will contribute to Galveston Bay Restoration "Marsh Mania" in Chambers County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the Galveston Bay Foundation and the Texas Commission on Environmental Quality***. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

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 providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

C. Minimum Expenditure

The 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:

Mr. Bob Stokes, President
Galveston Bay Foundation
17234-A Highway 3
Wester, Texas 77598

**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 April 25, 2006*

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 07-Aug-2006 | | | | |
| PCW | 31-Oct-2006 | Screening | 23-Aug-2006 | EPA Due | 01-May-2007 |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Chambers County | | |
| Reg. Ent. Ref. No. | RN100922392 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor Source |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 30898 | No. of Violations | 2 |
| Docket No. | 2006-1397-AIR-E | Order Type | 1660 |
| Media Program(s) | Air Quality | Enf. Coordinator | Rebecca Johnson |
| 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* $6,000

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 35% Enhancement *Subtotals 2, 3, & 7* $2,100

Notes: Penalty enhancement due to two NOVs issued for same or similar violations and one Administrative Compliance Order issued by the federal government (EPA Order CAA-06-2006-3301).

**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* -$1,500

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

Notes: The respondent returned to compliance on December 12, 2005.

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

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $400 |
| Approx. Cost of Compliance | $13,000 |

**SUM OF SUBTOTALS 1-7** Final Subtotal $6,600

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 19% Reduction Adjustment -$1,650

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

Notes: Penalty reduction recommended so that the Administrative Compliance Order, issued by the federal government as a result of Hurricane Rita, does not impact the penalty calculation.

Final Penalty Amount $4,950

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty $4,950

**DEFERRAL** 20% Reduction Adjustment -$990

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

Notes: A deferral is recommended for expedited settlement.

**PAYABLE PENALTY** $3,960

**Screening Date** 23-Aug-2006 **Docket No.** 2006-1397-AIR-E **PCW**
**Respondent** Chambers County *Policy Revision 2 (September 2002)*
**Case ID No.** 30898 *PCW Revision April 25, 2006*
**Reg. Ent. Reference No.** RN100922392
**Media [Statute]** Air Quality
**Enf. Coordinator** Rebecca Johnson

## 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)* | 2 | 10% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)* | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 1 | 25% |
| 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* | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)* | 0 | 0% |
| | | *Please Enter Yes or No* | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

***Adjustment Percentage (Subtotal 2)*** **35%**

>> **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**

Penalty enhancement due to two NOVs issued for same or similar violations and one Administrative Compliance Order issued by the federal government (EPA Order CAA-06-2006-3301).

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** **35%**

**Screening Date** 23-Aug-2006 **Docket No.** 2006-1397-AIR-E **PCW**

**Respondent** Chambers County *Policy Revision 2 (September 2002)*

**Case ID No.** 30898 *PCW Revision April 25, 2006*

**Reg. Ent. Reference No.** RN100922392

**Media [Statute]** Air Quality

**Enf. Coordinator** Rebecca Johnson

**Violation Number** 1

**Primary Rule Cite(s)** Air Permit No. 24247, Special Condition Nos. 10.A., 14.A., and 29, and 40 Code of Federal Regulations § 60.52c(a) and (d)(2)

**Secondary Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c), 101.20(1), and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failure to ensure that the incinerator is not operated in a substandard condition to ensure compliance with the hydrogen chloride limit of 15 parts per million by volume (ppmv) at 7% oxygen or maintain a 99% destruction efficiency for the incinerator. Specifically, a March 20, 2006 investigation documented low lime injection feed rates on July 3, 2005, November 24, 2005, November 26, 2006, November 27, 2005, November 28, 2005, November 29, 2005, and November 30, 2005. In addition, annual performance testing of the incinerator conducted on October 27, 2004 documented hydrogen chloride emissions of 17.8 ppmv at 7% oxygen and a destruction efficiency of 97.5%.

**Base Penalty** $10,000

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

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | x |
| Potential | | | |

OR

**Percent** 10%

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent**

Matrix Notes: Human health or the environment have been exposed to insignificant amounts of pollutants which do 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 5 412 Number of violation days

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

**Violation Base Penalty** $5,000

Five quarterly events are recommended based on the non-compliant performance test conducted on October 27, 2004 to the December 12, 2005 compliance date.

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** $394

**Statutory Limit Test**

**Violation Final Penalty Total** $4,125

**This violation Final Assessed Penalty (adjusted for limits)** $4,125

# Economic Benefit Worksheet

**Respondent** Chambers County
**Case ID No.** 30898
**Reg. Ent. Reference No.** RN100922392
**Media [Statute]** Air Quality
**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) | $5,000 | 27-Oct-2004 | 12-Dec-2005 | 1.1 | $19 | $375 | $394 |
| 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: Estimated cost to implement measures to ensure compliance with emission limits. Date required based on the date of the initial noncompliant stack test. Final date based on the compliance date.

**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: $5,000

**TOTAL** $394

**Screening Date** 23-Aug-2006 **Docket No.** 2006-1397-AIR-E **PCW**

**Respondent** Chambers County *Policy Revision 2 (September 2002)*

**Case ID No.** 30898 *PCW Revision April 25, 2006*

**Reg. Ent. Reference No.** RN100922392

**Media [Statute]** Air Quality

**Enf. Coordinator** Rebecca Johnson

**Violation Number** 2

**Primary Rule Cite(s)** Air Permit No. 24247, Special Condition No. 29 and 40 Code of Federal Regulations § 60.56c(c)(1) and (2)

**Secondary Rule Cite(s)** 30 Tex. Admin. Code § 116.115(c) and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failure to conduct annual performance testing of the incinerator within twelve months following the previous performance test conducted on October 29, 2004. Specifically, the next annual performance testing of the incinerator was not conducted until December 12, 2005 (the EPA ordered an extension to the testing requirement until December 8, 2005, however this was not met).

**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** 10%

Matrix Notes: 100% of the rule requirements were not met.

**Adjustment** -$9,000

**Base Penalty Subtotal** $1,000

**Violation Events**

Number of Violation Events 1 — 4 Number of violation days

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

**Violation Base Penalty** $1,000

One single event is recommended.

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** $6

**Statutory Limit Test**

**Violation Final Penalty Total** $825

**This violation Final Assessed Penalty (adjusted for limits)** $825

# Economic Benefit Worksheet

**Respondent** Chambers County
**Case ID No.** 30898
**Reg. Ent. Reference No.** RN100922392
**Media [Statute]** Air Quality
**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) | $8,000 | 08-Dec-2005 | 12-Dec-2005 | 0.0 | $0 | $6 | $6 |
| 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: Estimated cost to conduct performance testing of the incinerator. Date required based on the earliest documentation of noncompliance. Final date based on the compliance date.

| 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: $8,000

**TOTAL** $6

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600769798 | Chambers County | Classification: AVERAGE | Rating: 2.35 |
| Regulated Entity: | RN100922392 | CHAMBERS COUNTY RESOURCE RECOVERY & RECYCLING CENTER | Classification: AVERAGE | Site Rating: 0.67 |

| | | | |
|---|---|---|---|
| ID Number(s): | AIR NEW SOURCE PERMITS | PERMIT | 24247 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | CI0118J |
| | AIR NEW SOURCE PERMITS | AFS NUM | 0077 |
| | MUNICIPAL SOLID WASTE PROCESSING | PERMIT | 2239A |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXR000063099 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 87676 |

Location: 7505 US HIGHWAY 65, ANAHUAC, TX, 77514 Rating Date: 9/1/2005 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 28, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 28, 2001 to August 28, 2006

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

Name: Rebecca Johnson Phone: (713) 422-8931

## 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.

See addendum for information regarding federal actions.

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 | 08/04/2006 | (459889) |
| 2 | 05/14/2004 | (262636) |
| 3 | 07/29/2004 | (270653) |
| 4 | 05/14/2004 | (262935) |
| 5 | 06/18/2004 | (262065) |
| 6 | 05/14/2004 | (258575) |
| 7 | 08/26/2005 | (380806) |
| 8 | 06/04/2004 | (270909) |
| 9 | 06/25/2004 | (270231) |
| 10 | 05/14/2004 | (262626) |
| 11 | 04/08/2005 | (376695) |
| 12 | 08/29/2004 | (267890) |
| 13 | 06/04/2004 | (271070) |

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

**Date: 05/19/2004** (262636)

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 Ec 60.56c(b)

Rqmt Prov: PERMIT IA

Description: Failure to perform compliance test within the specified time frame.

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 Ec 60.52c(a)

Rqmt Prov: PERMIT IA

Description: Failure to demonstrate compliance with HCl emissions during a performance test.

Self Report? NO Classification: Minor

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

Description: Opacity exceedence

**Date: 08/02/2004** (270653)

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 Ec 60.52c(a)

Rqmt Prov: PERMIT IA

Description: Failure to emit particulate matter at a concentration below the permit allowable of 0.020 gr/dscm.

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

# Addendum to Compliance History
## Federal Enforcement Actions

| | | | |
|---|---|---|---|
| CUSTOMER (Defendant): | MUNICIPALITY OF CHAMBERS COUNTY | CUSTOMER NO.: | CN600769798 |
| REGULATED ENTITY: | MUNICIPALITY OF CHAMBERS COUNTYLANDFILL | REG. ENTITY NO.: | RN100922392 |
| REG. ENTITY ADDRESS: | 7505 HWY 65 | | |
| REG. ENTITY CITY: | Anahuac | | |

## Violations

EPA CASE NO.: 06-2006-3301
ORDER ISSUED DATE (YYYYMMDD): 20051117
ENFORCEMENT ACTION TYPE: Administrative Compliance Order
CASE RESULT:

CLASSIFICATION: MODERATE
STATUTE: CAA SECT. OF STATUTE: 112
CITATION: CITE PART: CITE SECT.:
PROGRAM: NESHAPs
VIOLATION TYPE: Req. To Monitor/Maintain Records

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| | | |
|---|---|---|
| **IN THE MATTER OF AN** | § | **BEFORE THE** |
| **ENFORCEMENT ACTION** | § | |
| **CONCERNING** | § | **TEXAS COMMISSION ON** |
| **CHAMBERS COUNTY** | § | |
| **RN100922392** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2006-1397-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 Chambers County ("the County") 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 the County appear before the Commission and together stipulate that:

1. The County owns and operates a municipal solid waste/medical waste incinerator at 7505 US Highway 65 in Anahuac, Chambers County, Texas (the "Plant").

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

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

4. The County received notice of the violations alleged in Section II ("Allegations") on or about August 9, 2006.

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

6. An administrative penalty in the amount of Four Thousand Nine Hundred Fifty Dollars ($4,950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nine Hundred Ninety Dollars ($990) is deferred contingent upon the County's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the County fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the County to pay all or part of the deferred penalty. Three Thousand Nine Hundred Sixty Dollars ($3,960) shall

be conditionally offset by the County's completion of a Supplemental Environmental Project ("SEP").

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 the County 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 the County has implemented the following corrective measures at the Plant:

   a. Inspected the lime feeder system gaskets on March 3, 2005 for cracks, and replaced and reinforced the gaskets to ensure a closed system under negative pressure;

   b. Inspected the lime surge bin for tight seals on September 2, 2005 to prevent water from getting in and dust getting out, and added this type inspection to the maintenance work order system to automatically generate an inspection order on a 60 day cycle;

   c. Updated operating system on October 1, 2005 to set the lime feed rates at 35% above permitted limits to accommodate fluctuations in the feeder flow and re-set the low level alarm set points to 30% of permitted limits to give early notification of potential blockage;

   d. Demonstrated a 99% removal efficiency through annual performance testing of the incinerator conducted on December 12, 2005; and

   e. Conducted annual performance testing of the incinerator on December 12, 2005, after obtaining an extension to December 8, 2005 from the Environmental Protection Agency.

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 the County 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 Plant, the County is alleged to have:

1. Failed to ensure that the incinerator is not operated in a substandard condition to ensure compliance with the hydrogen chloride limit of 15 parts per million by volume (ppmv) at 7% oxygen or maintain a 99% destruction efficiency for the incinerator, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c), 101.20(1), Air Permit No. 24247, Special Condition Nos. 10.A., 14.A., and 29, 40 CODE OF FEDERAL REGULATIONS § 60.52c(a) and (d)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 20, 2006. Specifically, a March 20, 2006 investigation documented low lime injection feed rates on July 3, 2005, November 24, 2005, November 26, 2005, November 27, 2005, November 28, 2005, November 29, 2005, and November 30, 2005. In addition, annual performance testing of the incinerator conducted on October 27, 2004 documented hydrogen chloride emissions of 17.8 ppmv at 7% oxygen and a destruction efficiency of 97.5%.

2. Failed to conduct annual performance testing of the incinerator within twelve months following the previous performance test conducted on October 29, 2004, in violation of 30 TEX. ADMIN. CODE § 116.115(c), Air Permit No. 24247, Special Condition No. 29, 40 CODE OF FEDERAL REGULATIONS § 60.56c(c)(1) and (2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 20, 2006. Specifically, the next annual performance testing of the incinerator was not conducted until December 12, 2005.

## III. DENIALS

The County generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the County pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the County's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Chambers County, Docket No. 2006-1397-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. The County shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Nine Hundred Sixty Dollars ($3,960) of the assessed administrative penalty shall be offset with the condition that the County implement the SEP defined in Attachment A, incorporated herein by reference. The County's 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 the County. The County is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

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

11-1-06
Date

Jimmy Kahla
Name (Printed or typed)
Authorized Representative of
Chambers County

Director
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: 2006-1397-AIR-E**

## SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|---|---|
| **Respondent:** | **Chambers County** |
| **Payable Penalty Amount:** | **Three Thousand Nine Hundred Sixty Dollars ($3,960)** |
| **SEP Amount:** | **Three Thousand Nine Hundred Sixty Dollars ($3,960)** |
| **Type of SEP:** | **Pre-approved** |
| **Third-Party Recipient:** | **Galveston Bay Foundation-"Marsh Mania"** |
| **Location of SEP:** | **Chambers 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 will contribute to Galveston Bay Restoration "Marsh Mania" in Chambers County. The contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the Galveston Bay Foundation and the Texas Commission on Environmental Quality***. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

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 providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

C. Minimum Expenditure

The 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:

Mr. Bob Stokes, President
Galveston Bay Foundation
17234-A Highway 3
Wester, Texas 77598

**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.