EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0340-IHW-E **TCEQ ID:** RN100525286 **CASE NO.:** 33083

RESPONDENT NAME: Dial Lubricants, Inc.

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

SITE WHERE VIOLATION(S) OCCURRED: Dial Lubricants, 1839 Ryan Road, Dallas, Dallas County

TYPE OF OPERATION: Transportation of industrial solid waste

SMALL BUSINESS: _X_ **Yes** ____ **No**

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

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

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

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Clinton Sims, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-6933; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468

Respondent: Mr. Eric Nilsson, Vice President, Dial Lubricants, Inc., Post Office Box 540607, Dallas, Texas 75354

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** October 2, 2006 **Date of NOE Relating to this Case:** February 28, 2007 (NOE) **Background Facts:** This was a routine investigation. One violation was documented. **WASTE** Failure to prevent the transportation of industrial hazardous waste to an unauthorized facility. Specifically, the Respondent transported one shipment of approximately 1,000 gallons of oily wastewater generated by A-One Aircraft Paint in Midlothian, which contained levels of methylene chloride (an F002 listed hazardous waste), to PCS Recovery Systems, Inc. in Dallas. PCS Recovery Systems, Inc. was not authorized to accept RCRA F-listed hazardous waste for processing prior to final disposition through a wastewater pre-treatment system [30 TEX. ADMIN. CODE § 335.2(b)].	**Total Assessed:** $900 **Total Deferred:** $180 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $720 **Site Compliance History Classification** _X_ **High** __ **Average** __ **Poor** **Person Compliance History Classification** _X_ **High** __ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, develop and implement procedures to ensure that all hazardous wastes are transported only to facilities permitted to accept them; and b. Within 45 days after the effective date of this Agreed Order, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision March 19, 2007*

DATES					
Assigned	5-Mar-2007				
PCW	23-Mar-2007	Screening	28-Mar-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Dial Lubricants, Inc.		
Reg. Ent. Ref. No.	RN100525286		
Facility/Site Region	4-Dallas / Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33083	No. of Violations	1
Docket No.	2007-0340-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Clinton Sims
Multi-Media		EC's Team	EnforcementTeam 8
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **-10%** Enhancement — *Subtotals 2, 3, & 7* **-$100**

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

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

Notes: The Respondent does not meet the culpability criteria.

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

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

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

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$51
Approx. Cost of Compliance	$1,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$900**

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

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

Notes:

Final Penalty Amount **$900**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$900**

DEFERRAL — **20%** Reduction — *Adjustment* **-$180**

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 **$720**

Screening Date 28-Mar-2007 **Docket No.** 2007-0340-IHW-E **PCW**

Respondent Dial Lubricants, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33083

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN100525286

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes

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

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 28-Mar-2007 **Docket No.** 2007-0340-IHW-E **PCW**

Respondent Dial Lubricants, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 33083 *PCW Revision March 19, 2007*

Reg. Ent. Reference No. RN100525286

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Violation Number 1

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

Violation Description Failed to prevent the transportation of industrial hazardous waste to an unauthorized facility, as documented during an investigation conducted on October 2, 2006. Specifically, the Respondent transported one shipment of approximately 1,000 gallons of oily wastewater generated by A-One Aircraft Paint in Midlothian, which contained levels of methylene chloride (an F002 listed hazardous waste), to PCS Recovery Systems, Inc. in Dallas. PCS Recovery Systems, Inc. was not authorized to accept RCRA F-listed hazardous waste for processing prior to final disposition through a wastewater pre-treatment system.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $51

Statutory Limit Test

Violation Final Penalty Total $900

This violation Final Assessed Penalty (adjusted for limits) $900

Economic Benefit Worksheet

Respondent Dial Lubricants, Inc.
Case ID No. 33083
Reg. Ent. Reference No. RN100525286
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling	$1,000	2-Oct-2006	10-Oct-2007	1.0	$51	n/a	$51
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 procedures to ensure hazardous waste is transported only to authorized facilities. The Date Required is the investigation date and the Final date is the estimated date of compliance.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance: $1,000

TOTAL: $51

Compliance History

Customer/Respondent/Owner-Operator:	CN600244776	Dial Lubricants, Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN100525286	DIAL LUBRICANTS	Classification: HIGH	Site Rating: 0.00

ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	71802
	USED OIL	REGISTRATION	A85485
Location:	1839 RYAN RD, DALLAS, TX, 75220	Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	April 02, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 02, 2002 to April 02, 2007		

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

Name: Clinton Sims Phone: 512-239-6933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. if Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1 04/08/2003 (16466)

2 02/27/2007 (517992)

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
DIAL LUBRICANTS, INC.	§	
RN100525286	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0340-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 Dial Lubricants, Inc. ("Dial Lubricants") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Dial Lubricants appear before the Commission and together stipulate that:

1. Dial Lubricants, a transporter of industrial solid waste located at 1839 Ryan Road in Dallas, Dallas County, Texas (the "Operation"), transported industrial solid waste to the PCS Recovery Systems, Inc. facility at 2131 Progressive Drive in Dallas, Dallas County, Texas (the "Facility").

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

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

4. Dial Lubricants received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2007.

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

6. An administrative penalty in the amount of Nine Hundred Dollars ($900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Dial Lubricants

has paid Seven Hundred Twenty Dollars ($720) of the administrative penalty and One Hundred Eighty Dollars ($180) is deferred contingent upon Dial Lubricants' 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 Dial Lubricants fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Dial Lubricants to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

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

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

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

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

II. ALLEGATIONS

As the waste transporter, Dial Lubricants is alleged to have failed to prevent the transportation of industrial hazardous waste to an unauthorized facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b), as documented during an investigation conducted on October 2, 2006. Specifically, Dial Lubricants transported one shipment of approximately 1,000 gallons of oily wastewater generated by A-One Aircraft Paint in Midlothian, which contained levels of methylene chloride (an F002 listed hazardous waste), to the Facility. The Facility was not authorized to accept RCRA F-listed hazardous waste for processing prior to final disposition through a wastewater pre-treatment system.

III. DENIALS

Dial Lubricants generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Dial Lubricants pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Dial Lubricants' 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: Dial Lubricants, Inc., Docket No. 2007-0340-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. It is further ordered that Dial Lubricants shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, develop and implement procedures to ensure that all hazardous wastes are transported only to facilities permitted to accept them; and

   b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

   The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

   "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

   The certification shall be submitted to:

   Order Compliance Team
   Enforcement Division, MC 149A
   Texas Commission on Environmental Quality
   P.O. Box 13087
   Austin, Texas 78711-3087

   with a copy to:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Dial Lubricants. Dial Lubricants is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Operation referenced in this Agreed Order.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 8/16/2007
For the Executive Director Date

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

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

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

_____ 5-18-07
Signature Date

Eric W. Nilsson President
Name (Printed or typed) Title
Authorized Representative of
Dial Lubricants, Inc.

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.