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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2007-0824-IWD-E **TCEQ ID:** RN100210475 **CASE NO.:** 33555  
**RESPONDENT NAME:** Stolthaven Houston, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Stolthaven Houston Terminal, 15602 Jacintoport Boulevard, on the north side of the Houston Ship Channel, the south side of Jacintoport Boulevard, and approximately one mile east of Beltway 8, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 22, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-5363; Mr. Steve Lopez, Enforcement Division, MC 219, (512) 239-1896  <b>Respondent:</b> Mr. Stephen E. Turchi, General Manager, Stolthaven Houston, Inc., 15602 Jacintoport Boulevard, Houston, Texas 77015  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> May 2, 2007</p> <p><b>Date of NOE Relating to this Case:</b> May 17, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review for compliance with the water quality program. One significant program violation was observed.</p> <p><b>WATER</b></p> <p>Failure to comply with the permitted effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. 03129, Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A and Outfall 003A].</p>	<p><b>Total Assessed:</b> \$13,725</p> <p><b>Total Deferred:</b> \$2,745  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$5,490</p> <p><b>Total Paid to General Revenue:</b> \$5,490</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p>2) The Order will require the Respondent to submit written certification of compliance with the effluent limits of TPDES Permit No. 03129 within 30 days after the effective date of this Agreed Order. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, and be notarized by a State of Texas Notary Public.</p>

Additional ID No(s): TPDES Permit No. 03129

**Attachment A**  
**Docket Number: 2007-0824-IWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** **Stolthaven Houston, Inc.**  
**Payable Penalty Amount:** **Ten Thousand Nine Hundred Eighty Dollars (\$10,980)**  
**SEP Amount:** **Five Thousand Four Hundred Ninety Dollars (\$5,490)**  
**Type of SEP:** **Pre-approved**  
**Third-Party Recipient:** **Gulf Coast Waste Disposal Authority ("GCWDA")-River, Lakes, Bays 'N Bayous Trash Bash**  
**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 will contribute to Gulf Coast Waste Disposal Authority ("GCWDA") for its River, Lakes, Bays 'N Bayous Trash Bash in Harris County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the GCWDA and the Texas Commission on Environmental Quality. Specifically, the contribution will be used to pay for materials, supplies, disposal costs, and transportation costs directly associated with the cleanup of trash and pollutants from the Galveston Bay and the San Jacinto watershed.

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 removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

**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:

Lori Gernhardt  
Gulf Coast Waste Disposal Authority  
910 Bay Area Boulevard  
Houston, Texas 77058

**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)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

TCEQ

DATES	Assigned	21-May-2007	Screening	24-May-2007	EPA Due	5-Sep-2007
	PCW	29-May-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Stolthaven Houston, Inc.		
Reg. Ent. Ref. No.	RN100210475		
Facility/Site Region	12-Houston	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	33555	No. of Violations	1
Docket No.	2007-0824-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	<b>\$7,500</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	83% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	<b>\$6,225</b>
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Notes: A 83% enhancement is recommended for having 14 self reported effluent violations, one NOV for the same or similar violations, and 4 NOVs for non-similar violations in the last five years.

<b>Culpability</b>	No	0% Enhancement	<i>Subtotal 4</i>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<i>Subtotal 5</i>	<b>\$0</b>
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	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*	<i>Subtotal 6</i>	<b>\$0</b>
Total EB Amounts	\$158	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,000		

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	<b>\$13,725</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<i>Adjustment</i>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

*Final Penalty Amount* **\$13,725**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	<b>\$13,725</b>
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<b>DEFERRAL</b>	20% Reduction	<i>Adjustment</i>	<b>-\$2,745</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$10,980</b>
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Screening Date 24-May-2007

Docket No. 2007-0824-IWD-E

PCW

Respondent Stolthaven Houston, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33555

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100210475

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

### 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)	15	75%
	Other written NOVs	4	8%
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 judgments 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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 83%

>> 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

A 83% enhancement is recommended for having 14 self reported effluent violations, one NOV for the same or similar violations, and 4 NOVs for non-similar violations in the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 83%

Screening Date 24-May-2007

Docket No. 2007-0824-IWD-E

PCW

Respondent Stolthaven Houston, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33555

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100210475

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 03129, Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A and Outfall 003A

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on May 2, 2007. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand ("CBOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, oil and grease, and ammonia nitrogen ("NH3-N") values were also considered. As a result of these discharges human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 151 Number of violation days

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Three quarterly events are recommended, one for Outfall 001A, and two for Outfall 003A.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$158

Violation Final Penalty Total \$13,725

This violation Final Assessed Penalty (adjusted for limits) \$13,725

## Economic Benefit Worksheet

**Respondent:** Stolthaven Houston, Inc.  
**Case ID No.:** 33555  
**Reg. Ent. Reference No.:** RN100210475  
**Media:** Water Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	30-Jun-2006	29-Jan-2008	1.6	\$158	n/a	\$158

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the expected 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

\$2,000

TOTAL

\$158

Effluent Violation Table  
 Stolthaven Houston, Inc.  
 TPDES Permit No. 03129  
 Docket No. 2007-0824-IWD-E

Permitted Effluent Limits Outfall 001A	Monitoring Period End Date	Permitted Effluent Limits Outfall 003A	Monitoring Period End Date				
	06/30/2006		06/30/2006	07/31/2006	08/31/2006	01/31/2007	02/28/2007
Oil and Grease Daily Max. 15 mg/l	106	Daily Maximum Flow 0.216 MGD	0.217120	C	C	C	C
		CBOD Daily Avg. 15 lbs/dy	C	C	C	34.06	57.37
		CBOD Daily Max. 38 lbs/dy	48.4101	C	54.2516	70.70	99.33
		NH3-N Daily Avg. 4.5 lbs/dy	C	5.82	C	C	C
		NH3-N Daily Max. 15 lbs/dy	C	18.97	C	C	C

CBOD = Carbonaceous Biochemical Oxygen Demand	Max. = Maximum
NH3-N = Ammonia Nitrogen	mg/l = Milligrams per liter
C = Compliant	Avg. = Average
MGD = Million Gallons per Day	



# Compliance History

Customer/Respondent/Owner-Operator: CN600124820 Stolthaven Houston, Inc. Classification: AVERAGE Rating: 0.88  
 Regulated Entity: RN100210475 STOLTHAVEN HOUSTON TERMINAL Classification: AVERAGE Site Rating: 0.88

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG1045K
	AIR OPERATING PERMITS	PERMIT	1060
	WASTEWATER	PERMIT	WQ0003129000
	WASTEWATER	PERMIT	TPDES0091855
	WASTEWATER	PERMIT	TX0091855
	WASTEWATER	PERMIT	TX0105228000
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD980748461
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	33722
	AIR NEW SOURCE PERMITS	PERMIT	41618
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG1045K
	AIR NEW SOURCE PERMITS	AFS NUM	4820100371
	AIR NEW SOURCE PERMITS	PERMIT	56261
	AIR NEW SOURCE PERMITS	PERMIT	47865
	AIR NEW SOURCE PERMITS	PERMIT	80759
	INDUSTRIAL AND HAZARDOUS WASTE TRANSPORTATION	SOLID WASTE REGISTRATION # (SWR)	83390
	STORMWATER	PERMIT	TXR05P877
	STORMWATER	PERMIT	TXR05U088
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	56784
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	33722

Location: 15602 Jacintoport Boulevard, on the north side of the Houston Ship Channel, the south side of Jacintoport Boulevard, and approximately one mile east of Beltway 8, Houston, Harris County Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 21, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 21, 2002 to May 21, 2007

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

Name: Samuel Short Phone: (512) 239-5363

### Site Compliance History Components

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

#### Components (Multimedia) for the Site :

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

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  | 05/24/2002 | (213722) |
| 2  | 06/12/2002 | (266423) |
| 3  | 06/24/2002 | (213726) |
| 4  | 07/23/2002 | (213730) |
| 5  | 08/21/2002 | (213733) |
| 6  | 09/23/2002 | (213736) |
| 7  | 10/22/2002 | (213739) |
| 8  | 11/25/2002 | (213743) |
| 9  | 12/20/2002 | (213747) |
| 10 | 01/23/2003 | (213751) |
| 11 | 02/26/2003 | (213711) |
| 12 | 03/27/2003 | (213714) |
| 13 | 04/03/2003 | (29727)  |
| 14 | 04/21/2003 | (213719) |

15	05/23/2003	(213723)
16	06/23/2003	(213727)
17	07/25/2003	(318831)
18	07/25/2003	(318833)
19	09/23/2003	(318835)
20	10/23/2003	(318837)
21	11/24/2003	(318838)
22	12/29/2003	(318839)
23	01/23/2004	(318840)
24	02/24/2004	(318822)
25	03/23/2004	(318824)
26	04/23/2004	(318825)
27	06/03/2004	(318827)
28	07/12/2004	(318829)
29	07/20/2004	(362033)
30	08/24/2004	(362034)
31	09/23/2004	(362035)
32	10/25/2004	(362036)
33	11/23/2004	(362037)
34	12/27/2004	(362038)
35	01/21/2005	(387494)
36	02/28/2005	(387492)
37	03/21/2005	(387493)
38	04/25/2005	(425214)
39	05/23/2005	(425215)
40	06/23/2005	(425216)
41	07/01/2005	(393407)
42	07/01/2005	(393413)
43	07/20/2005	(445813)
44	08/01/2005	(402036)
45	08/23/2005	(445814)
46	08/31/2005	(402998)
47	09/23/2005	(445815)
48	10/26/2005	(477737)
49	11/22/2005	(477738)
50	12/19/2005	(477739)
51	01/03/2006	(449825)
52	01/24/2006	(477740)
53	02/21/2006	(455211)
54	02/21/2006	(477735)
55	02/23/2006	(455832)
56	02/28/2006	(456502)
57	04/20/2006	(477736)
58	05/19/2006	(504222)
59	05/30/2006	(466273)
60	06/14/2006	(504221)
61	06/15/2006	(504223)
62	06/26/2006	(483405)
63	07/05/2006	(508639)
64	07/20/2006	(504224)
65	08/03/2006	(457281)
66	08/20/2006	(526566)
67	09/20/2006	(526567)
68	10/19/2006	(526568)
69	10/31/2006	(512573)
70	11/17/2006	(550741)
71	12/19/2006	(550742)
72	01/18/2007	(550743)
73	02/05/2007	(537609)
74	02/20/2007	(550740)
75	02/23/2007	(535269)
76	05/18/2007	(559075)

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

Date	06/10/2002	(266423)		
Self Report?	NO		Classificatio	Moderate
Citation:	30 TAC Chapter 101, SubChapter A 101.10(e) 30 TAC Chapter 101, SubChapter A 101.10(f)			
Description:	Respondent failed to submit an emissions inventory for calendar year 2001 on or before 03/31/2002.			
Date	12/31/2003	(318840)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			

Date	05/31/2004	(318829)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2004	(362037)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2005	(445813)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	07/01/2005	(393407)		
Self Report?	NO		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to properly collect the volatile and semi-volatile samples.			
Date	07/31/2005	(445814)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/31/2005	(402998)		
Self Report?	NO		Classificatio	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121[G] 2D TWC Chapter 26, SubChapter A 26.266(a) 30 TAC Chapter 335, SubChapter A 335.4[G] 30 TAC Chapter 350, SubChapter A 350.2(h)[G]			
Description:	Unauthorized discharge noted.			
Date	08/31/2005	(445815)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	09/30/2005	(477737)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2005	(477738)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	02/28/2006	(504221)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2006	(504224)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	07/05/2006	(508639)		
Self Report?	NO		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Date	07/31/2006	(526566)		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/04/2006	(457281)		
Self Report?	NO		Classificatio	Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THC Chapter 382, SubChapter A 382.085(b)			
Rqmt Prov:	OP OP O-01060 General Terms and Conditions			
Description:	Failure to submit a completed deviation report during the certification period of February 3, 2004 through August 3, 2004.			
Self Report?	NO		Classificatio	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.212(a)(1)(A)			

Rqmt Prov: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter A 382.085(b)  
OP O-01060, SC#1A  
Description: Failure to have proper vapor controls on rail car NATX 72336. (Sub Category B13)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(2)(D)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: OP O-01060, SC#1A  
Description: Failure to have a proper seal on Tank A-15-9; equipped with a slotted membrane fabric covering at least 90% of the area of the opening. Sub Category B13

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: OP O-01060, SC#3Aiii  
Description: Failure to do quarterly visual monitoring on Boiler (BLR-2).

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 117, SubChapter D 117.479(g)(2)(B)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Dc 60.48c(g)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: OP O-01060, SC#1A  
Description: Failure to record the fuel usage on weekends during the period of February 3, 2004 through February 2, 2005.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.212(a)(3)(A)(i)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: OP O-01060, SC#1A  
Description: Failure to have vapor control devices on lines/hoses at Rail Rack R-2 and Truck Rack T-6. Sub Category B13

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(5)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: OP O-01060, SC#1A  
Description: Failure to submit notification within 30 days or within seven days before storage vessel refilling.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: OP O-01060, SC#1A  
Description: Failure to observe and record visible emissions in the daily flare operation log for Tank Farm Vent Flare (TVFL) during the month of August 2004.

Date 08/31/2006 (526567)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

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

Date 01/31/2007 (550740)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

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

Date 02/28/2007

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
STOLTHAVEN HOUSTON, INC.  
RN100210475**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-0824-IWD-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 Stolthaven Houston, Inc. ("Stolthaven") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Stolthaven appear before the Commission and together stipulate that:

1. Stolthaven owns and operates a wastewater treatment facility at 15602 Jacintoport Boulevard, on the north side of the Houston Ship Channel, the south side of Jacintoport Boulevard, and approximately one mile east of Beltway 8 in Houston, Harris County, Texas (the "Facility").
2. Stolthaven has discharged industrial waste into or adjacent to any water in the state under Tex. Water Code ch. 26.
3. The Commission and Stolthaven agree that the Commission has jurisdiction to enter this Agreed Order, and that Stolthaven is subject to the Commission's jurisdiction.
4. Stolthaven received notice of the violations alleged in Section II ("Allegations") on or about May 22, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Stolthaven of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirteen Thousand Seven Hundred Twenty-Five Dollars (\$13,725) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Stolthaven has paid Five Thousand Four Hundred Ninety Dollars (\$5,490) of



the administrative penalty and Two Thousand Seven Hundred Forty-Five Dollars (\$2,745) is deferred contingent upon Stolthaven'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 Stolthaven fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Stolthaven to pay all or part of the deferred penalty. Five Thousand Four Hundred Ninety Dollars (\$5,490) shall be conditionally offset by Stolthaven's 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 Stolthaven 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 Stolthaven has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Stolthaven is alleged to have failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 03129, Effluent Limitations and Monitoring Requirements No. 1 for Outfall 001A and Outfall 003A, as documented during a record review conducted on May 2, 2007, as indicated in the table below.



**Effluent Violation Table**

Permitted Effluent Limits Outfall <b>001A</b>	Monitoring Period End Date	Permitted Effluent Limits Outfall <b>003A</b>	Monitoring Period End Date				
	06/30/2006		06/30/2006	07/31/2006	08/31/2006	01/31/2007	02/28/2007
Oil and Grease Daily Max. 15 mg/l	106	Daily Maximum Flow 0.216 MGD	0.217120	C	C	C	C
		CBOD Daily Avg. 15 lbs/dy	C	C	C	34.06	57.37
		CBOD Daily Max. 38 lbs/dy	48.4101	C	54.2516	70.70	99.33
		NH3-N Daily Avg. 4.5 lbs/dy	C	5.82	C	C	C
		NH3-N Daily Max. 15 lbs/dy	C	18.97	C	C	C

CBOD = Carbonaceous Biochemical Oxygen Demand	Max. = Maximum
NH3-N = Ammonia Nitrogen	mg/l = Milligrams per liter
C = Compliant	Avg. = Average
MGD = Million Gallons per Day	

**III. DENIALS**

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

**IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Stolthaven pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Stolthaven'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: Stolthaven Houston, Inc., Docket No. 2007-0824-IWD-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. Stolthaven 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 Five Thousand Four Hundred Ninety Dollars (\$5,490) of the assessed administrative penalty shall be



offset with the condition that Stolthaven implement the SEP defined in Attachment A, incorporated herein by reference. Stolthaven'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. It is further ordered that Stolthaven shall undertake the following technical requirements:

Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 03129. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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 169A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon Stolthaven. Stolthaven 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.
5. If Stolthaven 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, Stolthaven's failure to comply is not a violation of this Agreed Order. Stolthaven shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Stolthaven shall notify the Executive Director within seven days after Stolthaven becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.



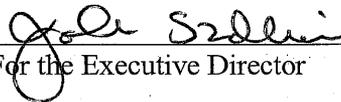
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Stolthaven shall be made in writing to the Executive Director. Extensions are not effective until Stolthaven receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Stolthaven 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Stolthaven, or three days after the date on which the Commission mails notice of the Order to Stolthaven, 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

10/7/07  
\_\_\_\_\_  
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 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.

  
\_\_\_\_\_  
Signature

8/7/07  
\_\_\_\_\_  
Date

Stephen E. Turchi  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Stolthaven Houston, Inc.

General Manager  
\_\_\_\_\_  
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: 2007-0824-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** Stolthaven Houston, Inc.  
**Payable Penalty Amount:** Ten Thousand Nine Hundred Eighty Dollars (\$10,980)  
**SEP Amount:** Five Thousand Four Hundred Ninety Dollars (\$5,490)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Gulf Coast Waste Disposal Authority (“GCWDA”)-River, Lakes, Bays ‘N Bayous Trash Bash  
**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 will contribute to Gulf Coast Waste Disposal Authority (“GCWDA”) for its River, Lakes, Bays ‘N Bayous Trash Bash in Harris County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the GCWDA and the Texas Commission on Environmental Quality. Specifically, the contribution will be used to pay for materials, supplies, disposal costs, and transportation costs directly associated with the cleanup of trash and pollutants from the Galveston Bay and the San Jacinto watershed.

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 removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

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:

Lori Gernhardt  
Gulf Coast Waste Disposal Authority  
910 Bay Area Boulevard  
Houston, Texas 77058

**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.

