

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0857-IHW-E TCEQ ID: RN100604677 CASE NO.: 33474
RESPONDENT NAME: U.S. OIL RECOVERY, L.P.

ORDER TYPE:		
<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	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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>SITE WHERE VIOLATION(S) OCCURRED: 400 N. Richey Street, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Centralized waste treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is an additional pending enforcement action regarding this facility. It is TCEQ Docket No.: 2008-0604-MLM-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 23, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Michael Meyer, Waste Enforcement Section, MC 128, (512) 239-4492 TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623 Respondent: Mr. Klaus Genssler, President, 400 N. Richey Street, Pasadena, Texas 77506 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: May 25 to November 7, 2005; October 7, 2005; January 10, 2006; February 23, 2006; May 30 to June 1, 2006; September 7, 2006; December 1, 2006.</p> <p>Dates of NOEs Relating to this Case: February 8, 2006; June 2, 2006; September 14, 2006; October 9, 2006; December 5, 2006; December 9, 2006; and March 6, 2007.</p> <p>Background Facts:</p> <p>An EDPRP was filed on July 17, 2007. The case was referred to SOAH and a signed Agreed Order was received on April 28, 2008.</p> <p>IHW: Failed to prevent unauthorized discharges resulting in site contamination requiring remediation. Specifically, 50-100 gallons of oily water were discharged from an opening in a brick wall behind the Facility's tank farm and onto the ground. Additionally, soil samples taken near the manhole on the southeast side of the Facility and near the storm water outfall indicated concentrations of arsenic, barium, lead and mercury that exceeded Texas Risk Program Tier 1 protective concentrations levels for soil [30 TEX. ADMIN. CODE § 335.4(1)].</p>	<p>Total Assessed: \$6,700</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$650/\$6,050</p> <p>The Respondent has paid \$650 of the administrative penalty. The remaining amount of \$6,050 of the administrative penalty shall be payable in eleven monthly payments of \$550 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1. Within 30 days, submit an Affected Property Assessment Report. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found at TEX. ADMIN. CODE ch. 350.</p> <p>2. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 1.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

DATES	Assigned	18-Dec-2006			
	PCW	1-Jun-2007	Screening	8-May-2007	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	U.S. Oil Recovery, L.P.				
Reg. Ent. Ref. No.	RN100604677				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	33474	No. of Violations	1		
Docket No.	2007-0857-IHW-E	Order Type	1660		
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Mike Limos		
Multi-Media		EC's Team	Enforcement Team 7		
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 34% Enhancement Subtotals 2, 3, & 7 \$1,700

Notes: Enhancement due to four NOV's for same or similar violations and seven NOV's for other violations at this site within 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 EDRP/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

Total EB Amounts	\$1,140	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$15,000	

SUM OF SUBTOTALS 1-7 Final Subtotal \$6,700

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 \$6,700

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$6,700

DEFERRAL 0% Reduction Adjustment \$0

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

Notes:

Deferral not offered for non-expedited settlement

PAYABLE PENALTY \$6,700

Screening Date 8-May-2007

Docket No. 2007-0857-IHW-E

PCW

Respondent U.S. Oil Recovery, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33474

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN100604677

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Mike Limos

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)	4	20%
	Other written NOVs	7	14%
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%
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) 34%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement due to four NOV's for same or similar violations and seven NOV's for other violations at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 34%

Screening Date 8-May-2007

Docket No. 2007-0857-IHW-E

PCW

Respondent U.S. Oil Recovery, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33474

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN100604677

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Mike Limos

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 335.4(1)

Violation Description

Failed to prevent unauthorized discharges resulting in site contamination requiring remediation. Specifically, 50-100 gallons of oily water was discharged from an opening in a brick wall behind the Facility's tank farm and onto the ground. Approximately 10 square feet of soil was observed to be impacted by this discharge. Additionally, soil samples taken near the manhole on the southeast side of the Facility and near the storm water outfall indicated concentrations of arsenic, barium, lead, and mercury that exceed Texas Risk Reduction Program (TRRP) Tier 1 protective concentration levels (PCLs) for soil. Three additional areas of soil behind the warehouse/processing building were sampled on February 23, 2006. The soil sampling results indicated levels of arsenic, lead, mercury, barium, ethyl benzene, styrene, tetrachloroethylene, toluene, benzo(a) pyrene, benzo(b) fluoranthene, 2-methylnaphthalene, naphthalene, aldrin, beta-benzenehexachloride, gamma-benzenehexachloride (Lindane), dieldrin, and total petroleum hydrocarbons exceed TRRP Tier 1 PCLs for soil.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

15000

>> Programmatic Matrix

		Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Human health and the environment has been exposed to a significant amount of pollutants which do not exceed protective levels.

Adjustment

\$2,500

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two quarterly events are recommended from the 12/1/06 investigation to the 5/8/07 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: U.S. Oil Recovery, L.P.
Case ID No.: 33474
Reg. Ent. Reference No.: RN100604677
Media: Industrial and Hazardous Waste
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$15,000	1-Dec-2006	8-Jun-2008	1.5	\$1,140	n/a	\$1,140
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated to remediate and dispose of contaminated soil calculated from the investigation date to the projected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$15,000	TOTAL	\$1,140
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Compliance History

Customer/Respondent/Owner-Operator:	CN602842734 U.S. Oil Recovery, L.P.	Classification: AVERAGE	Rating: 2.91
Regulated Entity:	RN100604677 US OIL RECOVERY	Classification: AVERAGE	Site Rating: 2.91
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	52123
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000051540
	MUNICIPAL SOLID WASTE PROCESSING	PERMIT	2336
	MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION	43020
	USED OIL	REGISTRATION	A85794
	USED OIL	EPA ID	TXR000051540
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	WQG600000
	INDUSTRIAL AND HAZARDOUS WASTE PROCESSING	PERMIT	52123
	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	2336
	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	2331
Location:	400 N RICHEY ST, PASADENA, TX, 77506	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	May 31, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 31, 2002 to May 31, 2007		

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

Name: Mike Limos Phone: 512.239.5839

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? | Yes |
| 3. If Yes, who is the current owner? | <u>U. S. Oil Recovery, L.L.C.</u> |
| | <u>U.S. Oil Recovery, L.P.</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>North Richey Street Site</u> |
| | <u>U.S. Oil Recovery L.L.P.</u> |
| 5. When did the change(s) in ownership occur? | <u>01/15/2004</u> |
| | <u>02/22/2006</u> |

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	02/24/2004	(256005)
2	10/05/2004	(333592)
3	10/07/2005	(432985)
4	12/05/2005	(436602)
5	02/06/2006	(451977)
6	03/14/2006	(453629)
7	05/25/2006	(465875)
8	06/02/2006	(465213)
9	06/02/2006	(467557)
10	07/13/2006	(484153)
11	10/10/2006	(511924)
12	11/27/2006	(519134)

13 12/14/2006 (532660)
 14 12/22/2006 (533999)
 15 01/31/2007 (537174)
 16 03/06/2007 (539481)

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

Date: 12/24/2003 (256005)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 324, SubChapter A 324.1
 30 TAC Chapter 324, SubChapter A 324.14
 40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.72(a)
 Description: Failure to determine that used oil that is to be burned for energy recovery meets the fuel specifications of 40 CFR 279.11.

Date: 02/24/2004 (256005)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)[G]
 Description: Failure to maintain an up-to-date Notice of Registration.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 324, SubChapter A 324.1
 30 TAC Chapter 324, SubChapter A 324.14
 40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.74(b)(4)
 Description: Failure to indicate a cross reference on shipment records to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under 279.72(a).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 324, SubChapter A 324.1
 30 TAC Chapter 324, SubChapter A 324.12
 40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.52(b)(2)(vi)
 Description: Failure to develop an adequate contingency plan. It lacked an evacuation plan.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 324, SubChapter A 324.1
 30 TAC Chapter 324, SubChapter A 324.12(3)[G]
 40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.55[G]
 Description: Failure to have a written analysis plan.

Date: 06/17/2004 (333592)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 324, SubChapter A 324.1
 30 TAC Chapter 324, SubChapter A 324.11(2)
 40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.42(a)
 Description: Failure to obtain a Used Oil Transporter registration.

Date: 10/05/2005 (432985)
 Self Report? NO Classification: Moderate
 Citation: TWC Chapter 26 26.121(a)(1)
 Description: Failure to prevent the unauthorized discharge of wastewater.

Self Report? NO Classification: Moderate
 Citation: TWC Chapter 26 26.039
 Description: Failure to submit a noncompliance notification within twenty four hours by phone or fax for the unauthorized discharge of wastewater.

Date: 11/17/2005 (435845)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 315, SubChapter A 315.1
 40 CFR Chapter 403, SubChapter N, PT 403 403.12(b)
 Description: US Oil Recovery representative completely failed to submit the required reports contained in 40 CFR §§403.12(b),(d),and (c) to the designated control authority (CA).

Date: 12/05/2005 (436602)
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
 Description: Unauthorized discharges resulted in site contamination requiring remediation.

Date: 02/08/2006 (451977)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
 Description: Failure to prevent an unauthorized discharge resulting in soil contamination.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter A 330.4(a)
 Description: Failure to have a permit to process lint trap waste, or authorization to store untreated grease and grit trap waste.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter P 330.603(a)(1)(C)

Description: Failure to accurately report the amount of MSW liquid waste received.
Date: 09/19/2006 (393672)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter E 330.66(d)(2)
Description: Failure to cover open vessels that manage grease trap waste and grit trap waste.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
Description: Failure to prevent an unauthorized discharge resulting in soil contamination.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.4(a)
Description: Failure to have a permit to process lint trap waste, or authorization to store untreated grease and grit trap waste.
Date: 09/29/2006 (485164)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.15(2)
Description: Failure to submit a complete May 2006 Monthly Receipt Summary Report by July 25, 2006.
Date: 11/27/2006 (519134)
Self Report? NO Classification: Moderate
Citation: 40 CFR Chapter 403, SubChapter N, PT 403 403.12(b)
Description: Failure to submit a complete baseline monitoring report.
Date: 05/29/2007 (556940)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Based on this investigation, the facility failed to obtain an air permit to operate the aeration basin.

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
AGAINST
U.S. OIL RECOVERY, L.P.;
RN100604677

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-0857-IHW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding U.S. Oil Recovery, L.P. ("USOR") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and USOR, appear before the Commission and together stipulate that:

1. USOR owns and operates a centralized waste treatment facility located at 400 N. Richey Street, Pasadena, Harris County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and USOR agree that the Commission has jurisdiction to enter this Agreed Order, and that USOR is subject to the Commission's jurisdiction.
4. USOR received notice of the violations alleged in Section II ("Allegations") on or about February 13, June 7, September 19, October 14, December 10, December 14, 2006 and March 11, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by USOR of the violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of six thousand seven hundred dollars (\$6,700.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). USOR has paid six hundred fifty dollars (\$650.00) of the administrative

penalty. The remaining amount of six thousand fifty dollars (\$6,050.00) of the administrative penalty shall be payable in eleven monthly payments of five hundred fifty dollars (\$550.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If USOR fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of USOR to meet the payment schedule of this Agreed Order constitutes the failure by USOR to timely and satisfactorily comply with all of the terms of this Agreed Order.

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 USOR 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 USOR 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

USOR is alleged to have violated 30 TEX. ADMIN. CODE § 335.4(1), by failing to prevent unauthorized discharges resulting in site contamination requiring remediation, as documented during inspections and record reviews conducted from May 25 to November 7, 2005; October 7, 2005; January 10, 2006; February 23, 2006; May 30 to June 1, 2006; September 7, 2006 and December 1, 2006. Specifically, 50-100 gallons of oily water were discharged from an opening in a brick wall behind the Facility's tank farm and onto the ground. Approximately 10 square feet of soil were observed to be impacted by this discharge. Additionally, soil samples taken near the manhole on the southeast side of the Facility and near the storm water outfall indicated concentrations of arsenic, barium, lead and mercury that exceeded Texas

Risk Reduction Program (TRRP) Tier 1 protective concentration levels (PCLs) for soil. Three additional areas of soil behind the warehouse/ processing building were sampled on February 23, 2006. The soil sampling results indicated levels of arsenic, lead, mercury, barium, ethyl benzene, styrene, tetrachloroethylene, toluene, benzo(a) pyrene, benzo(b) fluoranthene, 2-methylnapthalene, napthalene, aldrin, beta-benzenehexachloride, gamma-benzenehexachloride (Lindane), dieldrin, and total petroleum hydrocarbons exceeded TRRP Tier 1 PCLs for soil.

III. DENIALS

USOR generally denies the allegation in Section II (“Allegations”).

IV. ORDER

1. It is, therefore, ordered by the TCEQ that USOR pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and USOR’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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: U.S.Oil Recovery, L.P., Docket No. 2007-0857-IHW-E”:

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. USOR shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350, which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F.

- 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 that all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining 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 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon USOR. USOR is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If USOR 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, USOR's failure to comply is not a violation of this Agreed Order. USOR

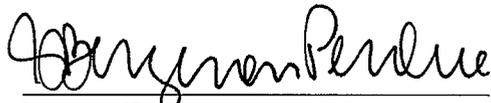
shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. USOR shall notify the Executive Director within seven days after USOR becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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 USOR shall be made in writing to the Executive Director. Extensions are not effective until USOR 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 USOR 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to USOR, or three days after the date on which the Commission mails notice of the Order to USOR, 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

6/25/08

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 USOR's failure to comply with the Ordering Provisions, if any, in this order and/or USOR's failure to timely pay the penalty amount, may result in:

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

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



Signature

4/21/08

Date

Klaus Gensler

Name (Printed or typed)
Authorized representative of
U.S. Oil Recovery, L.P.

President

Title