

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.: 2005-0958-IHW-E TCEQ ID: RN102963998 CASE NO.: 25611**  
**RESPONDENT NAME: MICKEY D. WELLS DBA TOGETHER MANUFACTURING**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 203 Peterson Drive, Kerrville, Kerr County</p> <p><b>TYPE OF OPERATION:</b> Metal plating facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input 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 January 4, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 767-3500  Ms. Lena Roberts Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Mr. J. Craig Fleming, Air Enforcement Section, MC 149, (512) 239-5806  <b>TCEQ Regional Contact:</b> Mr. Henry Karnei, Jr., San Antonio Regional Office, MC R-13, (210) 490-3096  <b>Respondent:</b> Mr. Mickey D. Wells, Owner, Together Manufacturing, 203 Peterson Drive, Kerrville, Texas 78028  <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></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> and February 24, 2005</p> <p><b>Date of NOE Relating to this Case:</b> May 11, 2005</p> <p><b>Background Facts:</b></p> <p>The EDPRP was filed and mailed on August 6, 2007. More than 20 days have elapsed since the Respondent received notice of the EDPRP provided by the Executive Director. The Respondent failed to file an Answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>IHW</b></p> <ol style="list-style-type: none"> <li>Failed to update the Notice of Registration (NOR) with all solid waste streams and waste management units using electronic notification software or paper forms provided by the Executive Director [30 TEX. ADMIN. CODE § 335.6(c)].</li> <li>Failed to conduct a hazardous waste determination and failed to classify the wastes for all of the waste streams at the Facility [30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a), and 40 CFR § 262.11].</li> <li>Failed to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container, and that each container and tank is labeled or marked clearly with the words "Hazardous Waste" [30 TEX. ADMIN. CODE §335.69(a)(2) and (3), and 40 CFR § 262.34(a)(2) and (3), and 262.34(d)(4)].</li> </ol>	<p><b>Total Assessed:</b> \$28,355</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$28,355</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of this proposed Order.</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>Contracted with Eagle Construction to contain the spill and conduct cleanup operations for the spill that occurred on January 23, 2003. Eagle Construction completed the cleanup operations in February 2003.</p> <p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 15 days:                     <ol style="list-style-type: none"> <li>Label each container in the container storage area of the facility with the date upon which each period of accumulation began;</li> <li>Label each container in the container storage area of the Facility with the words "Hazardous Waste;" and</li> <li>Ensure that all containers holding hazardous waste are always closed during storage, except when it is necessary to add or remove waste, and store hazardous waste in containers in good condition.</li> </ol> </li> <li>Within 30 days:                     <ol style="list-style-type: none"> <li>Update the Facility's NOR to include all solid waste management activities (i.e. notification information on each waste and waste management units) conducted at the facility;</li> <li>Conduct and document a hazardous waste determination for all the waste streams at the facility;</li> <li>Provide the TCEQ San Antonio Regional Office a detailed report documenting the adequate cleanup by Eagle Construction of the reported spill incident that occurred on January 23, 2003;</li> <li>Draft and implement a contingency plan and emergency procedures and make arrangements to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the Facility, properties of hazardous waste handled at the Facility, associated hazards, places where facility personnel would normally be working, entrances to roads inside the Facility, possible evacuation routes, and the types of injuries or illnesses which could result from first, explosions, or releases at the Facility;</li> </ol> </li> </ol>

4. Failed to ensure that a container holding hazardous waste is always properly closed except when it is necessary to add or remove waste, and failed to manage and store hazardous waste in containers that are in good condition [30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR §§ 265.171 and 265.173(a)].

5. Failed to submit written information, such as a letter, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge [30 TEX. ADMIN. CODE § 327.5(c)].

6. Failed to immediately manage the wastes after a spill or discharge [30 TEX. ADMIN. CODE § 327.5(a)(5) and (6)].

7. Failed to prevent the discharge or imminent threat of discharge of industrial solid waste or municipal hazardous waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge [30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121(a)].

8. Failed to develop a contingency plan and emergency procedures, and attempt to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the facility, properties of hazardous waste handled at the facility, associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, possible evacuation routes, and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility [30 TEX. ADMIN. CODE §§ 335.69(a)(4), 335.69(f)(5)(A),(B) and (D), and 335.112(a)(2)].

9. Failed to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies [30 TEX. ADMIN. CODE § 335.69(f)(5)(C) and 40 CFR § 262.34(d)(5)(iii)].

10. Failed to comply with the 180 day accumulation time limit for a small quantity generator [30 TEX. ADMIN. CODE § 335.69(h) and 40 CFR § 262.34(d)].

e. Provide training to facility personnel with regard to proper waste handling and emergency procedures; and

f. Dispose of all hazardous waste that has been stored at the facility that was collected from the January 23, 2003 Emergency Response Action at an authorized disposal facility.

3. Within 60 days, dispose of all hazardous waste at the Facility which has exceeded the 180 day accumulation time limit for a small quantity generator at an authorized disposal facility.

4. Within 75 days, submit an Affected Property Assessment Report for the immediate area surrounding the building containing the process tanks (with particular reference to possible chromium and cyanide discharges) and the area where the wooden crate containing the contaminated soil was placed. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program (TRRP) which may include, but are not limited to, the following:

a. Remedy Standard selection and submittal of either a Self-Implementation Notice (SIN) or a Response Action Plan (RAP);

b. Financial assurance documentation;

c. A Response Action Effectiveness Report submitted within 365 days after SIN submittal or RAP approval, unless a Response Action Completion Report has previously been approved;

d. An alternative Response Action submitted within 30 days after written notification by the Executive Director that sufficient progress is not being made toward timely achievement of any response objective;

e. A Response Action Completion Report (RACR), submitted within 90 days after completing the response action;

f. Institutional control documentation, submitted within either 90 days after RACR approval or 120 days after RAP approval; and

g. Post-Response Action Care Reports submitted for Remedy Standard B until termination of the post-response action care period.

5. Within 120 days, submit notarized written certification and include detailed supporting documentation including disposal receipts, photographs, and/or other records to demonstrate compliance with the above Ordering Provisions.



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	16-May-2005	Screening	26-May-2005	EPA Due	
	PCW	19-Aug-2005				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Mickey D. Wells dba Together Manufacturing
Reg. Ent. Ref. No.	RN102963998
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	25611	No. of Violations	10
Docket No.	2005-0958-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	J. Craig Fleming
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

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

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

**Compliance History** Subtotals 2, 3, & 7

7% Enhancement

Notes

An upward adjustment was made for one NOV for non-similar violations, and one NOV for similar violations.

**Culpability** Subtotal 4

No  0% Enhancement

Notes

The respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** Subtotal 5

0% Reduction

Before NOV    NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes

The respondent is not yet in compliance.

**Economic Benefit** Subtotal 6

0% Enhancement\*

\*Capped at the Total EB \$ Amount

Total EB Amounts	\$1,007
Approx. Cost of Compliance	\$15,800

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment

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

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL** Adjustment

Reduction

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

Notes

No deferral offered for a non-expedited order.

**PAYABLE PENALTY**

Litigation PCW-wb3

Screening Date 26-May-2005

Docket No. 2005-0958-IHW-E

PCW

Respondent Mickey D. Wells dba Together Manufacturing

Policy Revision 2 (September 2002)

Case ID No. 25611

PCW Revision May-19, 2005

Reg. Ent. Reference No. RN102963998

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator J. Craig Fleming

**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 ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	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)**

>> Repeat Violator (Subtotal 3)

**Adjustment Percentage (Subtotal 3)**

>> Compliance History Person Classification (Subtotal 7)

**Adjustment Percentage (Subtotal 7)**

>> Compliance History Summary

Compliance History Notes

An upward adjustment was made for one NOV for non-similar violations, and one NOV for similar violations.

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

Litigation PCW-wb3

Screening Date 26-May-2005

Docket No. 2005-0958-IHW-E

PCW

Respondent Mickey D. Wells dba Together Manufacturing

Policy Revision 2 (September 2002)

Case ID No. 25611

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102963998

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator J. Craig Fleming

Violation Number

1

Primary Rule Cite(s)

30 Tex. Admin. Code § 335.6(c)

Secondary Rule Cite(s)

Violation Description

Failure to update the Notice of Registration (NOR) with all solid waste streams and waste management units using electronic notification software or paper forms provided by the executive director. Specifically, the respondent has not provided notification to the TCEQ (Waste Registration and Reporting Section) for 4 of 7 waste streams at the facility, as documented during the investigation conducted on February 24, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification		X		Percent 5%

Matrix Notes

Failure to update the NOR with all solid waste streams and waste management units means that that much (30 to 70 percent) of the rule requirement was not met.

Adjustment -\$9,500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$500

One single event is recommended based on the investigation date of February 24, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$535

This violation Final Assessed Penalty (adjusted for limits) \$535

Litigation PCW.wb3

### Economic Benefit Worksheet

**Respondent** Mickey D. Wells dba Together Manufacturing  
**Case ID No.** 25611  
**Reg. Ent. Reference No.** RN102963998  
**Media [Statute]** Industrial and Hazardous Waste  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$100	24-Feb-2005	01-Apr-2006	1.1	\$5	n/a	\$5

Notes for DELAYED costs: Estimated cost for an employee to update the NOR with all waste streams that process hazardous wastes. Date Required was the date of the investigation. The Final Date is the projected date of compliance.

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

Approx. Cost of Compliance

**TOTAL**

Litigation PCW wp3

Screening Date 26-May-2005

Docket No. 2005-0958-IHW-E

PCW

Respondent Mickey D. Wells dba Together Manufacturing

Policy Revision 2 (September 2002)

Case ID No. 25611

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102963998

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator J. Craig Fleming

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to conduct a hazardous waste determination and failure to classify the wastes for all of the waste streams at the facility. Specifically, four of the waste streams had not been classified, as documented during the investigation conducted on February 24, 2005.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Failure to perform a hazardous waste determination can result in the exposure of a significant amount of contaminants which may exceed levels that are protective of human health and the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Four single events are recommended (1 for each waste stream) based on the investigation conducted on February 24, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Litigation PCW/wb3

### Economic Benefit Worksheet

**Respondent** Mickey D. Wells dba Together Manufacturing  
**Case ID No.** 25611  
**Reg. Ent. Reference No.** RN102963998  
**Media [Statute]** Industrial and Hazardous Waste  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Percent Interest		Years of Depreciation	
						Onetime Costs	EB Amount		
<b>Delayed Costs</b>									
Equipment				0.0	\$0	\$0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0	\$0	\$0
Engineering/construction				0.0	\$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	24-Feb-2005	01-Apr-2006	1.1	\$55	n/a		\$55	
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 perform a complete hazardous waste determination (\$250 per waste stream) to include sampling and laboratory analysis. Date required was the date of the investigation. The Final Date is the expected date of compliance.

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

Notes for AVOIDED costs: NA

Approx. Cost of Compliance

**TOTAL**

Litigation PCW:wb3

Screening Date 26-May-2005

Docket No. 2005-0958-IHW-E

PCW

Respondent Mickey D. Wells dba Together Manufacturing

Policy Revision 2 (September 2002)

Case ID No. 25611

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102963998

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator J. Craig Fleming

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(2) and (3)

Secondary Rule Cite(s) 40 CFR § 262.34(a)(2) and (3), and 262.34(d)(4)

Violation Description

Failure to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container, and that each container and tank is labeled or marked clearly with the words "Hazardous Waste". Specifically, it was documented that drums of unknown liquid waste, white precipitate wastes, and contaminated soils containing hazardous wastes, by samples collected on February 24, 2005 verified that the wastes were hazardous materials, and these materials did not have any accumulation dates and were not clearly marked "Hazardous Waste", as documented during the investigation conducted on February 24, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

The respondent failed to comply with 100% of the rule requirement.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 3

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

Violation Base Penalty \$3,000

Three single events are recommended (1 for each drum) as documented during the February 24, 2005 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$3,210

This violation Final Assessed Penalty (adjusted for limits) \$3,210

Litigation PCW wb3

### Economic Benefit Worksheet

**Respondent** Mickey D. Wells dba Together Manufacturing  
**Case ID No.** 25611  
**Reg. Ent. Reference No.** RN102963998  
**Media [Statute]** Industrial and Hazardous Waste  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

<b>Item Description</b>	<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
<b>Delayed Costs</b>							
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)	\$100	24-Feb-2005	01-Apr-2006	1.1	\$5	n/a	\$5

Notes for DELAYED costs: Estimated cost to label the containers with the beginning date of accumulation and with the words "Hazardous Waste". The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>	<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>						
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: NA

Approx. Cost of Compliance **\$100**

**TOTAL \$5**

Litigation PCW.wb3

**Screening Date** 26-May-2005

**Docket No.** 2005-0958-IHW-E

**PCW**

**Respondent** Mickey D. Wells dba Together Manufacturing

Policy Revision 2 (September 2002)

**Case ID No.** 25611

PCW Revision May 19, 2005

**Reg. Ent. Reference No.** RN102963998

**Media [Statute]** Industrial and Hazardous Waste

**Enf. Coordinator** J. Craig Fleming

**Violation Number** 4

**Primary Rule Cite(s)** 30 Tex. Admin Code §335.112(a)(8)

**Secondary Rule Cite(s)** 40 CFR §§ 265.171 and 265.173(a)

**Violation Description**

Failure to ensure that a container holding hazardous waste is always properly close except when it is necessary to add or remove waste, and manage and store hazardous waste in containers that are in good condition. Specifically, eight open drums of waste being stored within the facility's electroplating building were observed open and six of these were in poor condition, as observed during the February 18, 2005 investigation.

**Base Penalty** \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 5%
	Potential			X	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes

The facility maintaining open hazardous waste containers will or could expose human health or the environment to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

**Adjustment** -\$9,500

**Base Penalty Subtotal** \$500

**Violation Events**

Number of Violation Events 8

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

**Violation Base Penalty** \$4,000

Eight single events are recommended (1 for each drum) observed during the investigation conducted on February 24, 2005.

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

**Estimated EB Amount** \$0

**Statutory Limit Test**

**Violation Final Penalty Total** \$4,280

**This violation Final Assessed Penalty (adjusted for limits)** \$4,280

**Violation Final Penalty Total divided by**

**Number of violation days** 8

**Equals this Violation Final Penalty per day** \$535

Industrial/Together Litigation PCW.wb3  
**Economic Benefit Worksheet**

**Respondent** Mickey D. Wells dba Together Manufacturing  
**Case ID No.** 25611  
**Reg. Ent. Reference No.** RN102963998  
**Media [Statute]** Industrial and Hazardous Waste  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

<b>Item Description</b>	<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
<b>Delayed Costs</b>							
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)	\$400	18-Feb-2005	24-Feb-2005	0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to maintain hazardous waste containers covered. The Date Required was the date of the investigation. The Final Date was the date of compliance.

<b>Avoided Costs</b>	<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>						
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: NA

Approx. Cost of Compliance **\$400** **TOTAL \$0**

**Screening Date** 26-May-2005 **Docket No.** 2005-0958-IHW-E **PCW**  
**Respondent** Mickey D. Wells dba Together Manufacturing *Policy Revision 2 (September 2002)*  
**Case ID No.** 25611 *PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN102963998  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** J. Craig Fleming

**Violation Number**   
**Primary Rule Cite(s)**   
**Secondary Rule Cite(s)**

**Violation Description**  
 Failure to submit written information, such as a letter, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge or spill. Specifically, the facility has not provided the regional office a detailed report documenting the spill incident and the adequate cleanup of the spill incident that was reported on January 23, 2003, as documented during the investigation conducted on February 24, 2005.

**Base Penalty**

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

**Violation Base Penalty**

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

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

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

Industrial Together Litigation PCW.wb3  
**Economic Benefit Worksheet**

**Respondent** Mickey D. Wells dba Together Manufacturing  
**Case ID No.** 25611  
**Reg. Ent. Reference No.** RN102963998  
**Media [Statute]** Industrial and Hazardous Waste  
**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$200	23-Feb-2003	01-Apr-2006	3.1	\$31	n/a	\$31

Notes for DELAYED costs: Estimated cost to submit documentation discussing remediation of the spill. The Date Required was the due date for the report of the spill incident. 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: NA

Approx. Cost of Compliance **\$200**

**TOTAL \$31**

Screening Date 26-May-2005

Industrial Together Litigation PCW.wb3

Docket No. 2005-0958-IHW-E

PCW

Respondent Mickey D. Wells dba Together Manufacturing

Policy Revision 2 (September 2002)

Case ID No. 25611

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102963998

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator J. Craig Fleming

Violation Number 6

Primary Rule Cite(s) 30 Tex. Admin. Code § 327.5(a)(5) and (6)

Secondary Rule Cite(s)

Violation Description

Failure to immediately manage the wastes after a spill or discharge. Specifically, the respondent failed to properly manage the contaminated soil collected during the January 23, 2003 Emergency Response Action, as documented during the investigation conducted on February 24, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

The inability to properly disposing of contaminated soil properly has exposed human health or the environment to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$2,000

Two quarterly events are recommended based on the date of the investigation conducted on February 24, 2005 to the withdrawal date of August 17, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$42

Violation Final Penalty Total \$2,140

This violation Final Assessed Penalty (adjusted for limits) \$2,140

Industrial/Together Litigation PCW.wb3  
**Economic Benefit Worksheet**

**Respondent** Mickey D. Wells dba Together Manufacturing  
**Case ID No.** 25611  
**Reg. Ent. Reference No.** RN102963998  
**Media [Statute]** Industrial and Hazardous Waste  
**Violation No.** 6

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

<b>Item Description</b>	<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
<b>Delayed Costs</b>							
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	\$250	23-Jan-2003	01-Jun-2006	3.4	\$42	n/a	\$42
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost to properly dispose of the contaminated soil. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>	<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>						
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** NA

Approx. Cost of Compliance

**TOTAL**

Screening Date 26-May-2005 Industrial\Together Litigation PCW.wb3 Docket No. 2005-0958-IHW-E

PCW

Respondent Mickey D. Wells dba Together Manufacturing

Policy Revision 2 (September 2002)

Case ID No. 25611

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102963998

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator J. Craig Fleming

Violation Number 7

Primary Rule Cite(s) 30 Tex. Admin. Code § 335.4 and Tex. Water Code § 26.121(a)

Secondary Rule Cite(s)

Violation Description

Failure to prevent the discharge or imminent threat of discharge of industrial solid waste or municipal hazardous waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge. Specifically, discharges were observed between the process tanks, and the wooden crate containing contaminated soil was broken open, as documented during the investigation conducted on February 24, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

The discharge of contaminants has exposed human health or the environment to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$2,000

Two quarterly events are recommended based on the date of the investigation conducted on February 24, 2005 to the withdrawal date of August 17, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$633

Violation Final Penalty Total \$2,140

This violation Final Assessed Penalty (adjusted for limits) \$2,140

Industrial/Together Litigation PCW.wb3  
**Economic Benefit Worksheet**

**Respondent** Mickey D. Wells dba Together Manufacturing  
**Case ID No.** 25611  
**Reg. Ent. Reference No.** RN102963998  
**Media [Statute]** Industrial and Hazardous Waste  
**Violation No.** 7

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

<b>Item Description</b>	<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
<b>Delayed Costs</b>							
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	\$10,000	24-Feb-2005	01-Jun-2006	1.3	\$633	n/a	\$633
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The estimated cost of the Affected Property Assessment Report, removal, properly disposal, and remediate of all sources of contamination at the site. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>	<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>						
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** NA

Approx. Cost of Compliance **\$10,000** **TOTAL \$633**

Screening Date 26-May-2005 Industrial Together Litigation PCW.wb3 Docket No. 2005-0958-IHW-E

PCW

Respondent Mickey D. Wells dba Together Manufacturing

Policy Revision 2 (September 2002)

Case ID No. 25611

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102963998

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator J. Craig Fleming

Violation Number

8

Primary Rule Cite(s)

30 Tex. Admin. Code §§ 335.69(a)(4), 335.69(f)(5)(A),(B) and (D), and 335.112(a)(2)

Secondary Rule Cite(s)

Violation Description

Failure to develop a contingency plan and emergency procedures, and attempt to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the facility, properties of hazardous waste handled at the facility, associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, possible evacuation routes, and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility, as documented during the investigation conducted on February 24, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes The respondent failed to comply with 100% of the rule requirement.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$1,000

One single event is recommended based on the date of the investigation conducted on February 24, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$63

Violation Final Penalty Total \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

Industrial Together Litigation PCW.wb3  
**Economic Benefit Worksheet**

**Respondent** Mickey D. Wells dba Together Manufacturing  
**Case ID No.** 25611  
**Reg. Ent. Reference No.** RN102963998  
**Media [Statute]** Industrial and Hazardous Waste  
**Violation No.** 8

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime	EB
						Costs	Amount
<b>Delayed Costs</b>							
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)	\$1,000	24-Feb-2005	01-Jun-2006	1.3	\$63	n/a	\$63

**Notes for DELAYED costs** Estimated cost to make the necessary notifications with emergency response organizations. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>		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** NA

Approx. Cost of Compliance **\$1,000**

**TOTAL \$63**

Screening Date 26-May-2005 Industrial Together Litigation PCW.wb3  
 Docket No. 2005-0958-IHW-E

PCW

Respondent Mickey D. Wells dba Together Manufacturing

Policy Revision 2 (September 2002)

Case ID No. 25611

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102963998

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator J. Craig Fleming

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies. Specifically, personnel have not been provided or completed a training course to be familiarized with the proper handling of hazardous waste and with emergency procedures to react and/or prevent a release of a hazardous waste, as documented during the investigation conducted on February 24, 2005.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Industrial Together Litigation PCW.wb3  
**Economic Benefit Worksheet**

**Respondent** Mickey D. Wells dba Together Manufacturing  
**Case ID No.** 25611  
**Reg. Ent. Reference No.** RN102963998  
**Media [Statute]** Industrial and Hazardous Waste  
**Violation No.** 9

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

<b>Item Description</b>	<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
<b>Delayed Costs</b>							
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	\$250	24-Feb-2005	01-Apr-2006	1.1	\$14	n/a	\$14
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 provide training for the personnel. The Date Required was the date of the investigation, The Final Date is the expected date of compliance.

<b>Avoided Costs</b>	<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>						
	<b>Item Cost</b>	<b>Date Required</b>	<b>Final Date</b>	<b>Yrs</b>	<b>Interest Saved</b>	<b>Onetime Costs</b>	<b>EB Amount</b>
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** NA

Approx. Cost of Compliance  **TOTAL**

Screening Date	26-May-2005	Industrial Together Litigation PCW.wb3	PCW
Respondent	Mickey D. Wells dba Together Manufacturing	Docket No	2005-0958-IHW-E
Case ID No.	25611		Policy Revision 2 (September 2002)
Reg. Ent. Reference No.	RN102963998		PCW Revision May 19, 2005
Media (Statute)	Industrial and Hazardous Waste		
Enf. Coordinator	J. Craig Fleming		

Violation Number	10
Primary Rule Cite(s)	30 Tex. Admin. Code § 335.69(h)
Secondary Rule Cite(s)	40 CFR § 262.34(d)
Violation Description	Failure to comply with the 180 day accumulation time limit for a small quantity generator. Specifically, the generator has been accumulating and storing a hazardous waste (D007) greater than 180 days without a permit, as documented during the investigation conducted on February 24, 2005.
Base Penalty	\$10,000

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

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes: The respondent failed to comply with 100% of the rule requirement.

Adjustment: -\$9,000

Base Penalty Subtotal: \$1,000

**Violation Events**

Number of Violation Events: 2

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

Violation Base Penalty: \$2,000

Two quarterly events are recommended based on the date of the investigation conducted on February 24, 2005 to the withdrawal date of August 17, 2005.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount: \$158	Violation Final Penalty Total: \$2,140
This violation Final Assessed Penalty (adjusted for limits): \$2,140	

Mickey D. Wells dba Together Manufacturing  
 25611  
 RN102963998  
 Industrial and Hazardous Waste  
 10

5.0 15

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	\$2,500 24-Feb-2005 01-Jun-2006	1.3	\$158	n/a	\$158
Permit Costs		0.0	\$0	n/a	\$0
Other (as needed)		0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly dispose of the waste onsite. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

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

NA

Approx. Cost of Compliance

# Compliance History

Customer/Respondent/Owner-Operator: CN602634446 Mickey D Wells Classification: AVERAGE Rating: 1.500

Regulated Entity: RN102963998 TOGETHER MANUFACTURING Classification: AVERAGE Site Rating: 1.50  
ID Number(s):

AIR NEW SOURCE PERMITS	REGISTRATION	72142
INDUSTRIAL AND HAZARDOUS WASTE	ID NUMBER	F1772
GENERATION		
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXR000058610
GENERATION		

Location: 203 PETERSON DR, KERRVILLE, TX, 78028 Rating Date: 9/1/04 Repeat Violator: NO

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: May 26, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 26, 2000 to May 26, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Craig Fleming Phone: 239-5806

## 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.)

2	04/18/2005	(375931)
4	05/02/2003	(31775)
6	05/03/2005	(375933)
8	05/11/2005	(372268)

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

1. Date: 09/01/2004 (284337)

Self Report? NO Classification: Moderate

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

Description: Failure to meet state notification requirements.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.62

40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11[G]

Description: Failure to provide hazardous waste determination and documentation for all wastes streams generated at the

facility.

- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(2)  
30 TAC Chapter 335, SubChapter C 335.69(f)(4)[G]  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(2)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(4)  
Description: Failure to properly date the accumulation dates of several drums.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(3)  
30 TAC Chapter 335, SubChapter C 335.69(f)(4)[G]  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(4)  
Description: Failure to label containers as hazardous waste.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(f)(2)  
30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(1)(i)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173(a)  
Description: Failure to properly close containers containing hazardous waste.
- Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(f)(2)  
30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(2)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.171  
Description: Failure to manage and store hazardous waste in containers in good condition.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 327 327.5(c)[G]  
Description: Failure to submit a report describing the discharge or spill and supporting an adequate remediation.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 327 327.5(a)[G]  
Description: Failure to remove and manage contaminated soil collected during the spill response.
- Self Report? NO Classification: Major  
Citation: 2D TWC Chapter 26, SubChapter A 26.121[G]  
30 TAC Chapter 335, SubChapter A 335.4[G]  
Description: Failure to prevent unauthorized discharges at two locations at the facility.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)[G]  
30 TAC Chapter 335, SubChapter E 335.112(a)(2)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(4)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT C 265.37(a)(1)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT C 265.37(a)(3)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT C 265.37(a)(4)  
Description: Failure to provide notification to local fire, police, and hospitals of the facility's operation, in the event of a hazardous material release.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(f)(5)(A)  
30 TAC Chapter 335, SubChapter C 335.69(f)(5)(B)[G]  
30 TAC Chapter 335, SubChapter C 335.69(f)(5)(D)[G]  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(5)(i)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(5)(ii)[G]  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(5)(iv)[G]  
Description: Failure to implement a contingency plan and emergency procedures.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter C 335.69(f)(5)(C)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(5)(iii)  
Description: Failure to conduct and provide training to personnel who handle hazardous waste.

2. Date: 01/24/2003 (20576)

- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
Description: The surface coating operation does not qualify for PBR 106.433 Section 6.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

10/10/2003  
08/24/2004

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  
MICKEY D. WELLS DBA  
TOGETHER MANUFACTURING,  
RN102963998

§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2005-0958-IHW-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Mickey D. Wells dba Together Manufacturing ("Mr. Wells").

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Mr. Wells owns and/or operates a metal plating facility at 203 Peterson Drive in Kerrville, Kerr County, Texas (the "Facility").
2. The Facility involves the management and/or the disposal of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection on February 24, 2005, a TCEQ San Antonio Regional Office investigator documented that Mr. Wells:
  - a. Failed to update the Notice of Registration ("NOR") with all solid waste streams and waste management units using electronic notification software or paper forms provided by the Executive Director. Specifically, Mr. Wells has not provided notification to the TCEQ (Waste Registration and Reporting Section) for 4 of 7 waste streams at the Facility.
  - b. Failed to conduct a hazardous waste determination and by failing to classify the wastes for all of the waste streams at the Facility. Specifically, four of the waste streams had not been classified.

- c. Failed to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container, and that each container and tank is labeled or marked clearly with the words "Hazardous Waste." Specifically, drums of unknown liquid waste, white precipitate wastes, and contaminated soils containing hazardous wastes, by samples collected on February 24, 2005, verified that the wastes were hazardous materials, and these materials did not have any accumulation dates and were not clearly marked "Hazardous Waste."
- d. Failed to ensure that a container holding hazardous waste is always properly closed except when it is necessary to add or remove waste, and by failing to manage and store hazardous waste in containers that are in good condition. Specifically, eight open drums of waste being stored within the Facility's electroplating building were observed open and six of these were in poor condition.
- e. Failed to submit written information, such as a letter, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge. Specifically, the Facility has not provided the regional office a detailed report documenting the spill incident and the adequate cleanup of the spill incident that was reported on January 23, 2003.
- f. Failed to immediately manage the wastes after a spill or discharge. Specifically, Mr. Wells failed to properly manage the contaminated soil collected during the January 23, 2003 Emergency Response Action.
- g. Failed to prevent the discharge or imminent threat of discharge of industrial solid waste or municipal hazardous waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge. Specifically, discharges were observed between the process tanks and the wooden crate containing contaminated soil was broken open.
- h. Failed to develop a contingency plan and emergency procedures, and attempt to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the Facility, properties of hazardous waste handled at the Facility, associated hazards, places where Facility personnel would normally be working, entrances to roads inside the Facility, possible evacuation routes, and the types of injuries or illnesses which could result from fires, explosions, or releases at the Facility.
- i. Failed to ensure that all employees are thoroughly familiar with proper waste

handling and emergency procedures relevant to their responsibilities during normal Facility operations and emergencies. Specifically, personnel have not been provided or completed a training course to be familiarized with the proper handling of hazardous waste and with emergency procedures to react and/or prevent a release of a hazardous waste.

- j. Failed to comply with the 180 day accumulation time limit for a small quantity generator. Specifically, the generator has been accumulating and storing a hazardous waste (D007) greater than 180 days without a permit.
4. Mr. Wells received notice of the violations on or about May 16, 2005.
5. The Executive Director recognizes that Mr. Wells has contracted with Eagle Construction to contain the spill and conduct cleanup operations for the spill that occurred on January 23, 2003.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mickey D. Wells dba Together Manufacturing" (the "EDPRP") in the TCEQ Chief Clerk's office on August 6, 2007.
7. By letter dated August 6, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Wells with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Wells received notice of the EDPRP.
8. More than 20 days have elapsed since Mr. Wells received notice of the EDPRP, provided by the Executive Director. Mr. Wells failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Wells is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Wells failed to update the Notice of Registration ("NOR") with all solid waste streams and waste management units using

electronic notification software or paper forms provided by the Executive Director, in violation of 30 TEX. ADMIN. CODE § 335.6(c).

3. As evidenced by Finding of Fact No. 3.b., Mr. Wells failed to conduct a hazardous waste determination and by failing to classify the wastes for all of the waste streams at the Facility, in violation of 30 TEX. ADMIN. CODE §§ 335.62 and 335.503(a), and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11.
4. As evidenced by Finding of Fact No. 3.c., Mr. Wells failed to ensure that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container, and that each container and tank is labeled or marked clearly with the words "Hazardous Waste," in violation of 30 TEX. ADMIN. CODE § 335.69(a)(2) and (3), and 40 CFR §§ 262.34(a)(2) and (3), and 262.34(d)(4).
5. As evidenced by Finding of Fact No. 3.d., Mr. Wells failed to ensure that a container holding hazardous waste is always properly closed except when it is necessary to add or remove waste, and by failing to manage and store hazardous waste in containers that are in good condition, in violation of 30 TEX. ADMIN. CODE § 335.112(a)(8) and 40 CFR §§ 265.171 and 265.173(a).
6. As evidenced by Finding of Fact No. 3.e., Mr. Wells failed to submit written information, such as a letter, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge, in violation of 30 TEX. ADMIN. CODE § 327.5(c).
7. As evidenced by Finding of Fact No. 3.f., Mr. Wells failed to immediately manage the wastes after a spill or discharge, in violation of 30 TEX. ADMIN. CODE § 327.5(a)(5) and (6).
8. As evidenced by Finding of Fact No. 3.g., Mr. Wells failed to prevent the discharge or imminent threat of discharge of industrial solid waste or municipal hazardous waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge, in violation of 30 TEX. ADMIN. CODE § 335.4 and TEX. WATER CODE § 26.121(a).
9. As evidenced by Finding of Fact No. 3.h., Mr. Wells failed to develop a contingency plan and emergency procedures, and attempt to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the Facility, properties of hazardous waste handled at the Facility, associated hazards, places where Facility personnel would normally be working, entrances to roads inside the Facility, possible evacuation routes, and the types of injuries or illnesses which could result from fires, explosions, or releases at the Facility, in violation of 30 TEX. ADMIN. CODE §§ 335.69(a)(4), 335.69(f)(5)(A),(B) and (D), and 335.112(a)(2).

10. As evidenced by Finding of Fact No. 3.i., Mr. Wells failed to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal Facility operations and emergencies, in violation of 30 TEX. ADMIN. CODE § 335.69(f)(5)(C) and 40 CFR § 262.34(d)(5)(iii).
11. As evidenced by Finding of Fact No. 3.j., Mr. Wells failed to comply with the 180 day accumulation time limit for a small quantity generator, in violation of 30 TEX. ADMIN. CODE § 335.69(h) and 40 CFR § 262.34(d).
12. As evidenced by Finding of Fact No. 7., the Executive Director has timely served Mr. Wells with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
13. As evidenced by Finding of Fact No. 8., Mr. Wells has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Wells and assess the penalty recommended by the Executive Director.
14. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Wells for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
15. An administrative penalty in the amount of twenty-eight thousand three hundred fifty-five dollars (\$28,355.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
16. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Wells is assessed an administrative penalty in the amount of twenty-eight thousand three hundred fifty-five dollars (\$28,355.00) for violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, 40 CODE OF FEDERAL REGULATIONS chs. 262 and 265, and

and rules of the TCEQ. The payment of this administrative penalty and Mr. Wells' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Mickey D. Wells dba Together Manufacturing; Docket No. 2005-0958-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. Mr. Wells shall undertake the following technical requirements:
  - a. Within 15 days after the effective date of the Commission Order, Mr. Wells shall:
    - i. Label each container in the container storage area of the Facility with the date upon which each period of accumulation began, in accordance with 30 TEX. ADMIN. CODE § 335.69 and 40 CFR § 262.34;
    - ii. Label each container in the container storage area of the Facility with the words "Hazardous Waste", in accordance with 30 TEX. ADMIN. CODE § 335.69 and 40 CFR 262.34; and
    - iii. Ensure that all containers holding hazardous waste are always closed during storage, except when it is necessary to add or remove waste, and store hazardous waste in containers in good condition.
  - b. Within 30 days after the effective date of the Commission Order, Mr. Wells shall:
    - i. Update the Facility NOR to include all solid waste management activities (i.e., notification information on each waste and waste management units) conducted at the Facility in accordance with of 30 TEX. ADMIN. CODE § 335.6;
    - ii. Conduct and document a hazardous waste determination for all the waste streams at the Facility, as required by 30 TEX. ADMIN. CODE § 335.62 and

CFR § 262.11;

- iii. Provide the TCEQ San Antonio Regional Office a detailed report documenting the adequate cleanup by Eagle Construction of the reported spill incident that occurred on January 23, 2003, as required by 30 TEX. ADMIN. CODE § 327.5;
  - iv. Draft and implement a contingency plan and emergency procedures and make arrangements to familiarize police, fire departments, emergency response teams, and hospitals with the layout of the Facility, properties of hazardous waste handled at the Facility, associated hazards, places where Facility personnel would normally be working, entrances to roads inside the Facility, possible evacuation routes, and the types of injuries or illnesses which could result from fires, explosions, or releases at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.69;
  - v. Provide training to Facility personnel with regard to proper waste handling and emergency procedures, in accordance with 30 TEX. ADMIN. CODE § 335.69 and 40 CFR § 262.34; and
  - vi. Dispose of all hazardous waste that has been stored at the Facility that was collected from the January 23, 2003 Emergency Response Action at an authorized disposal facility, in accordance with 30 TEX. ADMIN. CODE § 327.5.
- c. Within 60 days after the effective date of the Commission Order, Mr. Wells shall dispose of all hazardous waste at the Facility which has exceeded the 180 day accumulation time limit for a small quantity generator at an authorized disposal facility, in accordance with 30 TEX. ADMIN. CODE § 335.69 and 40 CFR § 262.34(f).
- d. Within 75 days after the effective date of the Commission Order, Mr. Wells shall submit an Affected Property Assessment Report for the immediate area surrounding the building containing the process tanks (with particular reference to possible chromium and cyanide discharges) and the area where the wooden crate containing the contaminated soil was placed, 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 (TRRP) found in 30 TEX. ADMIN. CODE ch. 350 which may include, but are not limited to, the following:
- i. Remedy Standard selection and submittal of either a Self-Implementation Notice (SIN), pursuant to 30 TEX. ADMIN. CODE § 350.92, or a Response

- Action Plan (RAP), pursuant to 30 TEX. ADMIN. CODE § 350.94;
- ii. Financial assurance documentation (30 TEX. ADMIN. CODE § 350.33(1));
  - iii. A Response Action Effectiveness Report (30 TEX. ADMIN. CODE § 350.93), submitted within 365 days after SIN submittal or RAP approval, unless a Response Action Completion Report has previously been approved;
  - iv. An Alternative Response Action, pursuant to 30 TEX. ADMIN. CODE § 350.31(e) and § 350.32(b)(3) or § 350.33(b)(2), submitted within 30 days after written notification by the Executive Director that sufficient progress is not being made toward timely achievement of any response objective;
  - v. A Response Action Completion Report (RACR), pursuant to 30 TEX. ADMIN. CODE § 350.95, submitted within 90 days after completing the response action;
  - vi. Institutional control documentation, pursuant to 30 TEX. ADMIN. CODE § 350.31(g), submitted within either 90 days after RACR approval or 120 days after RAP approval; and
  - vii. Post-Response Action Care Reports (30 TEX. ADMIN. CODE § 350.96) submitted for Remedy Standard B until termination of the post-response action care period.
- e. Within 120 days after the effective date of the Commission Order, Mr. Wells shall submit written certification as described below, and include detailed supporting documentation including disposal receipts, photographs, and/or other records to demonstrate compliance with Ordering Provision nos. 2.a. through 2.d.

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 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:

Work Leader  
Team 5, Section III  
Enforcement Division, MC 149  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Manager Waste Section  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Wells. Mr. Wells is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility's operations referenced in this Order.
5. If Mr. Wells fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Wells' failure to comply is not a violation of this Order. Mr. Wells shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Wells shall notify the Executive Director within seven days after Mr. Wells 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 Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Wells shall be made in writing to the Executive Director. Extensions are not effective until Mr. Wells receives written

approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Wells if the Executive Director determines that Mr. Wells has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF GARY K. SHIU**

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

“My name is Gary K. Shiu. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mickey D. Wells dba Together Manufacturing” (the “EDPRP”) with the Office of the Chief Clerk on August 6, 2007.

I sent the EDPRP to Mr. Wells at his last known address on August 6, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating that Mr. Wells received notice of the EDPRP.

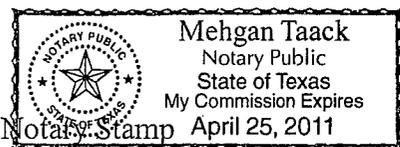
More than 20 days have elapsed since Mr. Wells received notice of the EDPRP. Mr. Wells failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



\_\_\_\_\_  
Gary K. Shiu  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Gary K. Shiu, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 31<sup>st</sup> day of October, A.D., 2007.



Meghan Taack  
\_\_\_\_\_  
Notary Signature