

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1936-IWD-E **TCEQ ID:** RN103219002 **CASE NO.:** 35032

RESPONDENT NAME: Veolia ES Technical Solutions, L.L.C.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Port Arthur Facility, located south of State Highway 73 and approximately 3.5 miles southwest of the location where the State Highway 73 bridge crosses Taylor Bayou, Jefferson County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</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 30, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Daniel Duncan, Environmental Health & Safety Manager, Veolia ES Technical Solutions, L.L.C., P.O. Box 2563, Port Arthur, Texas 77643 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: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 24, 2007</p> <p>Date of NOV/NOE Relating to this Case: September 24, 2007 (NOV); November 9, 2007 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limits for chemical oxygen demand, total copper, total lead, total zinc, total aluminum, and total mercury [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002417000 Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)(1)].</p>	<p>Total Assessed: \$7,320</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$3,660</p> <p>Total Paid to General Revenue: \$3,660</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>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits in TPDES Permit No. WQ0002417000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): TPDES Permit No. WQ0002417000

Attachment A
Docket Number: 2007-1936-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Veolia ES Technical Solutions, L.L.C.
Payable Penalty Amount: Seven Thousand Three Hundred Twenty Dollars (\$7,320)
SEP Amount: Three Thousand Six Hundred Sixty Dollars (\$3,660)
Type of SEP: Pre-approved
Third-Party Recipient: South East Texas Regional Planning Commission-West Port Arthur Home Energy Efficiency Program
Location of SEP: Jefferson County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to conduct home energy audits and to assist low income residents in the West Port Arthur area by weatherizing their homes which will improve their homes' energy efficiency. SEP monies will be used to pay for the cost of caulking and insulating homes, replacing heating and cooling systems and major appliances with new, energy efficient equipment.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter, volatile organic compounds, and nitrogen oxides associated with the combustion of fuel and generation of electricity. Additionally, the improvements will improve homes as shelters for responding to emergency releases.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

South East Texas Regional Planning Commission
Transportation and Environmental Resources
Bob Dickenson, Director
2210 Eastex Freeway
Beaumont, Texas 77703

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

DATES	Assigned	12-Nov-2007	Screening	27-Nov-2007	EPA Due	
	PCW	14-Dec-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Veolia ES Technical Solutions, L.L.C.		
Reg. Ent. Ref. No.	RN103219002		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35032	No. of Violations	1
Docket No.	2007-1936-IWD-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	157% Enhancement	Subtotals 2, 3, & 7 \$4,710

Notes The Respondent has three NOV's for the same violations, one NOV for unrelated violations, and 28 months of self-reported effluent violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

	0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$2,482	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$20,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,710
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-5%	Adjustment	-\$390
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommend reduction in penalty so that monthly self-reported violations do not overly impact the penalty amount and to prevent double-enhancement of the penalty amount for same violations that were not self-reported.

Final Penalty Amount	\$7,320
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,320
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$7,320
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Screening Date 27-Nov-2007

Docket No. 2007-1936-IWD-E

PCW

Respondent Veolia ES Technical Solutions, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 35032

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN103219002

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

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>	31	155%
	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 submitted)</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) 157%

>> **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

The Respondent has three NOVs for the same violations, one NOV for unrelated violations, and 28 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 157%

Screening Date 27-Nov-2007	Docket No. 2007-1936-IWD-E	PCW			
Respondent Veolia ES Technical Solutions, L.L.C.	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 35032	<i>PCW Revision November 6, 2007</i>				
Reg. Ent. Reference No. RN103219002					
Media [Statute] Water Quality					
Enf. Coordinator Pamela Campbell					
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0002417000 Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)(1)				
Violation Description	Failed to comply with its permitted effluent limits as shown in the attached table.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
		Percent	10%		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	0%		
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.				
		Adjustment	\$9,000		
		\$1,000			
Violation Events					
Number of Violation Events		3	Number of violation days		184
<i>mark only one with an x</i>	daily	<input type="checkbox"/>			
	monthly	<input type="checkbox"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input type="checkbox"/>			
		Violation Base Penalty	\$3,000		
Three quarterly events are recommended.					
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$2,482	Violation Final Penalty Total		\$7,320
This violation Final Assessed Penalty (adjusted for limits)				\$7,320	

Economic Benefit Worksheet

Respondent Veolia ES Technical Solutions, L.L.C.
Case ID No. 35032
Reg. Ent. Reference No. RN103219002
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$20,000	1-Oct-2006	9-Jul-2008	1.8	\$118	\$2,363	\$2,482
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs This is the estimated cost to prepare a study to evaluate methods needed to reduce or eliminate the noncompliances. The date required is the date the violations began and the final date is the anticipated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$20,000	TOTAL	\$2,482
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Compliance History

Customer/Respondent/Owner-Operator:	CN603069626	Veolia ES Technical Solutions, L.L.C.	Classification: AVERAGE	Rating: 5.64
Regulated Entity:	RN103219002	PORT ARTHUR FACILITY	Classification: AVERAGE	Site Rating: 1.90
ID Number(s):	WASTEWATER	PERMIT	WQ0002417000	
	WASTEWATER	PERMIT	TPDES0083828	
	WASTEWATER	PERMIT	TX0083828	
	WASTEWATER LICENSING	LICENSE	WQ0002417000	
Location:	SOUTH OF STATE HWY 73 AND APPROXIMATELY 3.5 MILES SW OF THE LOCATION WHERE THE STATE HWY 73 BRIDGE CROSSES TAYLOR BAYOU, JEFFERSON COUNTY REGION 10 - BEAUMONT			Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region:	November 26, 2007			
Date Compliance History Prepared:	Enforcement			
Agency Decision Requiring Compliance History:	November 26, 2002 to November 26, 2007			
Compliance Period:	Regarding this Compliance History			
TCEQ Staff Member to Contact for Additional Information:	Name: Pamela Campbell Phone: 512 239-4493			

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? | Veolia ES Technical Solutions, L.L.C. |
| 4. | If Yes, who was/were the prior owner(s)? | Onyx Environmental Services, LLC |
| 5. | When did the change(s) in ownership occur? | 08/01/2006 |

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 12/27/2002 (206825)
 - 2 01/27/2003 (206828)
 - 3 02/17/2003 (206797)
 - 4 03/25/2003 (316063)
 - 5 04/14/2003 (206812)
 - 6 04/25/2003 (206802)
 - 7 05/20/2003 (316065)
 - 8 06/20/2003 (316066)
 - 9 08/14/2003 (145864)
 - 10 08/22/2003 (316068)
 - 11 09/18/2003 (316069)
 - 12 10/23/2003 (316070)
 - 13 11/24/2003 (316071)
 - 14 12/19/2003 (316072)
 - 15 12/29/2003 (258628)
 - 16 01/23/2004 (316073)
 - 17 03/23/2004 (316064)
 - 18 04/22/2004 (360715)
 - 19 05/11/2004 (267138)
 - 20 05/25/2004 (360716)
 - 21 06/22/2004 (316067)
 - 22 07/23/2004 (360717)
 - 23 08/24/2004 (360718)
 - 24 09/22/2004 (360719)
 - 25 10/25/2004 (360720)
 - 26 10/29/2004 (360722)
 - 27 11/23/2004 (386717)
 - 28 12/27/2004 (360721)
 - 29 01/11/2005 (346384)
 - 30 02/25/2005 (424535)
 - 31 03/09/2005 (350087)
 - 32 03/25/2005 (386716)
 - 33 04/06/2005 (430019)
 - 34 04/22/2005 (378757)
 - 35 04/25/2005 (424536)
 - 36 05/24/2005 (424537)
 - 37 06/01/2005 (424539)
 - 38 06/22/2005 (424538)
 - 39 08/23/2005 (445278)
 - 40 09/28/2005 (445279)
 - 41 10/31/2005 (476542)
 - 42 11/28/2005 (476543)
 - 43 12/27/2005 (476544)
 - 44 01/27/2006 (476545)
 - 45 02/28/2006 (476540)
 - 46 03/24/2006 (476541)
 - 47 04/24/2006 (503538)
 - 48 04/28/2006 (463067)
 - 49 05/23/2006 (503539)
 - 50 06/26/2006 (503540)
 - 51 08/03/2006 (525894)
 - 52 08/22/2006 (525896)

53 09/21/2006 (525898)
 54 09/25/2006 (525895)
 55 09/25/2006 (525897)
 56 10/24/2006 (550334)
 57 11/27/2006 (550335)
 58 12/27/2006 (550336)
 59 01/19/2007 (550337)
 60 02/20/2007 (550333)
 61 03/19/2007 (586185)
 62 04/17/2007 (586186)
 63 05/18/2007 (586187)
 64 06/19/2007 (586188)
 65 07/19/2007 (586189)
 66 08/17/2007 (604662)
 67 09/19/2007 (604663)
 68 10/19/2007 (604664)
 69 11/09/2007 (595451)
 70 11/26/2007 (608675)

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

Date: 11/30/2002 (206825)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2002 (206828)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (206797)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2003 (316063)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2003 (206802)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2003 (316065)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2003 (316066)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2003 (316068)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/14/2003 (145864)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
 Rqmt Prov: OP WQ0002417
 Description: Failure by the permittee to provide effluent sample analysis with a resolution equal to or less than the minimum analytical level (MAL) required by the permit.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: OP WQ0002417
 Description: Failure to discharge effluent in compliance with permitted effluent limitations.

Date: 09/30/2003 (316070)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2003 (316071)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)

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

Date: 12/31/2003 (316073)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 01/31/2004 (316062)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 02/29/2004 (316064)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 04/30/2004 (360716)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 05/10/2004 (267138)
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT WQ 2417-000
Description: Investigation sample results revealed a noncompliant discharge for aluminum at Outfall 001. The results indicated an effluent concentration of 1.370 mg/l of total aluminum versus the permit limitation of 0.986 mg/l.

Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 2417-000
Description: Onyx personnel single sample aliquots from multiple sumps and composite them into one single sample aliquot to split and test for TOC and O&G.

Date: 06/30/2004 (360717)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 10/31/2004 (386717)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 01/31/2005 (424535)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 02/28/2005 (386716)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 03/31/2005 (424536)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

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

Date: 04/06/2005 (430019)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate

- H. N/A
Voluntary on-site compliance assessment dates.
 - I. N/A
Participation in a voluntary pollution reduction program.
 - J. N/A
Early compliance.
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
VEOLIA ES TECHNICAL SOLUTIONS,	§	
L.L.C.	§	
RN103219002	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1936-IWD-E

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Veolia ES Technical Solutions, L.L.C. (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located south of State Highway 73 and approximately 3.5 miles southwest of the location where the State Highway 73 bridge crosses Taylor Bayou in Jefferson County, Texas (the “Facility”).

2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on September 24, 2007, TCEQ staff documented the following effluent data:

	Chemical Oxygen Demand Daily Maximum	Total Copper Daily Maximum	Total Lead Daily Maximum	Total Zinc Daily Maximum	Total Aluminum Daily Maximum	Total Mercury Daily Maximum
<i>Month/Year</i>	200 mg/L	0.059 mg/L	0.026 mg/L	0.5 mg/L	5.8 mg/L	0.00044 mg/L
Oct-06	c	c	c	c	7.95	c
Dec-06	c	0.114	c	c	6.32	c
Mar-07	c	c	0.027	c	6.26	c
Apr-07	254	c	0.238	0.696	57.8	0.0007
May-07	c	c	c	c	6.02	c
Jun-07	c	c	c	c	8.55	c

4. The Respondent received notice of the violations on or about September 29, 2007.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with its permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002417000 Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)(1).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent 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.
4. An administrative penalty in the amount of Seven Thousand Three Hundred Twenty Dollars (\$7,320) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Three Thousand Six Hundred Sixty Dollars (\$3,660) of the administrative penalty. Three Thousand Six Hundred Sixty Dollars (\$3,660) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Seven Thousand Three Hundred Twenty Dollars (\$7,320) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Veolia ES Technical Solutions, L.L.C., Docket No. 2007-1936-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, 4 above, Three Thousand Six Hundred Sixty Dollars (\$3,660) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The Respondent shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits in TPDES Permit No. WQ0002417000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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:

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

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.

10. 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.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/29/2008
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Veolia ES Technical Solutions, L.L.C. I am authorized to agree to the attached Agreed Order on behalf of Veolia ES Technical Solutions, L.L.C., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Veolia ES Technical Solutions, L.L.C. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

April 18, 2008
Date

Daniel J. Dunca

Name (Printed or typed)
Authorized Representative of
Veolia ES Technical Solutions, L.L.C.

Environmental, Health and
Safety Manager

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1936-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Veolia ES Technical Solutions, L.L.C.
Payable Penalty Amount: Seven Thousand Three Hundred Twenty Dollars (\$7,320)
SEP Amount: Three Thousand Six Hundred Sixty Dollars (\$3,660)
Type of SEP: Pre-approved
Third-Party Recipient: South East Texas Regional Planning Commission-West Port
Arthur Home Energy Efficiency Program
Location of SEP: Jefferson County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to conduct home energy audits and to assist low income residents in the West Port Arthur area by weatherizing their homes which will improve their homes' energy efficiency. SEP monies will be used to pay for the cost of caulking and insulating homes, replacing heating and cooling systems and major appliances with new, energy efficient equipment.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter, volatile organic compounds, and nitrogen oxides associated with the combustion of fuel and generation of electricity. Additionally, the improvements will improve homes as shelters for responding to emergency releases.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

Veolia ES Technical Solutions, L.L.C.
Agreed Order – Attachment A

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

South East Texas Regional Planning Commission
Transportation and Environmental Resources
Bob Dickenson, Director
2210 Eastex Freeway
Beaumont, Texas 77703

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

