

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1219-WQ-E **TCEQ ID:** RN100539378 **CASE NO.:** 36270
RESPONDENT NAME: H & W Petroleum Company, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input 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: H & W Petroleum Company, Inc., 2509 West Frank Street, Lufkin, Angelina County</p> <p>TYPE OF OPERATION: New oil products distributor</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on February 15, 2008 concerning odors in the area. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 24, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None 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. Richard Freeland, Vice President/General Manager, H & W Petroleum Company, Inc., 9617 Wallisville Road, Houston, Texas 77013 Mr. Paul C. Vinger, Senior Vice President of Corporate Planning and Fleet Operations, H & W Petroleum Company, Inc., 9617 Wallisville Road, Houston, Texas 77013 Respondent's Attorney: Ms. Laura J. Riese, Attorney, Davis Graham & Stubbs LLP, 1550 17th Street, Suite 500, Denver, Colorado,</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: February 15, 2008</p> <p>Date of Investigation Relating to this Case: February 20, 2008</p> <p>Date of NOV/NOE Relating to this Case: July 3, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, on February 16, 2008, the Respondent notified the TCEQ Beaumont Regional Office that a spill of approximately 3,600 gallons of oil and diesel and an unknown amount of associated wastewater was released onto the ground from a 16,000 gallon tank. Heavy rainfall on February 16, 2008 caused the material to migrate into state waters via a tributary to Hurricane Creek located at the rear of the Site [TEX. WATER CODE § 26.121(a)(1)].</p>	<p>Total Assessed: \$1,875</p> <p>Total Deferred: \$375 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,500</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:</p> <ol style="list-style-type: none"> On February 16, 2008, began emergency response actions including placing containment and sorbent booms at the Site; On February 16, 2008, cut a berm around the Site and created containment sumps at the Site; On February 17, 2008, resumed removing the wastewater and collecting samples of the discharge; On February 25, 2008, properly disposed of contaminated soil; and On February 25, 2008, developed procedures to dispose of uncontaminated storm water from the Site's secondary containment areas to the City of Lufkin wastewater treatment facility.

Additional ID No(s): 0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 17, 2008

TCEQ

DATES	Assigned	7-Jul-2008	Screening	25-Jul-2008	EPA Due	
	PCW	5-Aug-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	H & W Petroleum Company, Inc.		
Reg. Ent. Ref. No.	RN100539378		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36270	No. of Violations	1
Docket No.	2008-1219-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Pamela Campbell
		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	\$2,500
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No enhancement based on Average Performer classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$111
Approx. Cost of Compliance: \$89,842

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$1,875
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,875
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DEFERRAL	20.0% Reduction	Adjustment	-\$375
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,500
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Screening Date 25-Jul-2008

Docket No. 2008-1219-WQ-E

PCW

Respondent H & W Petroleum Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36270

PCW Revision June 17, 2008

Reg. Ent. Reference No. RN100539378

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

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 0%

>> **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

No enhancement based on Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 25-Jul-2008	Docket No. 2008-1219-WQ-E	PCW		
Respondent H & W Petroleum Company, Inc.		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36270		<small>PCW Revision June 17, 2008</small>		
Reg. Ent. Reference No. RN100539378				
Media [Statute] Water Quality				
Enf. Coordinator Pamela Campbell				
Violation Number	1			
Rule Cite(s)	Tex. Water Code § 26.121(a)(1)			
Violation Description	<p>Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, on February 16, 2008, the Respondent notified the TCEQ Beaumont Regional Office that a spill of approximately 3,600 gallons of oil and diesel and an unknown amount of associated wastewater was released onto the ground from a 16,000 gallon tank. Heavy rainfall on February 16, 2008 caused the material to migrate into state waters via a tributary to Hurricane Creek located at the rear of the Site.</p>			
	Base Penalty	\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual		x	
	Potential			
			Percent	25%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
			Percent	0%
Matrix Notes	Human health or the environment has been exposed to a significant amount of pollutants which did not exceed levels that are protective of human health or the environment.			
	Adjustment	\$7,500		
		\$2,500		
Violation Events				
	Number of Violation Events	1	Number of violation days	
		1		
<small>mark only one with an x</small>	daily			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			
			Violation Base Penalty	
			\$2,500	
<p>One monthly event is recommended from the date the discharge occurred (February 16, 2008) to the date the Site was remediated (February 25, 2008).</p>				
Good Faith Efforts to Comply		25.0% Reduction	\$625	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary	x			
N/A			<small>(mark with x)</small>	
Notes	The Respondent completed remediation of the spill on February 25, 2008.			
		Violation Subtotal	\$1,875	
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	\$111	Violation Final Penalty Total	
			\$1,875	
		This violation Final Assessed Penalty (adjusted for limits)		
		\$1,875		

Economic Benefit Worksheet

Respondent H & W Petroleum Company, Inc.
Case ID No. 36270
Reg. Ent. Reference No. RN100539378
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$89,842	16-Feb-2008	25-Feb-2008	0.02	\$111	n/a	\$111
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

This is the cost the Respondent incurred to contain the spill and properly remove and dispose of contaminated soil. The date required is the date that the spill occurred and the final date is the date that the Respondent disposed of the contaminated soil.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$89,842	TOTAL	\$111
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Compliance History

Customer/Respondent/Owner-Operator:	CN600244263 H & W Petroleum Company, Inc.	Classification: AVERAGE	Rating: 4.93
Regulated Entity:	RN100539378 H & W PETROLEUM CO INC	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	USED OIL	REGISTRATION	C81847
	USED OIL	EPA ID	TXD988070637
	PETROLEUM STORAGE TANK	REGISTRATION	63610
	REGISTRATION		
Location:	2509 W FRANK AVE, LUFKIN, TX, 75904	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	July 17, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 16, 2003 to July 16, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Pamela Campbell</u>	Phone:	<u>512 239-4493</u>

Site Compliance History Components

- | | |
|--|--|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>H & W Petroleum Company, Inc.</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Exxon Mobil Corporation</u>
<u>H & W Petroleum Company, Inc.</u>
<u>Exxon Mobil Corporation</u> |
| 5. When did the change(s) in ownership occur? | <u>01/20/2004</u>
<u>03/08/2006</u> |

Components (Multimedia) for the Site :

- | | | | | | | | | | | | |
|----|--|---|---|------------|----------|---|------------|----------|---|------------|----------|
| A. | Final Enforcement Orders, court judgments, 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.) | <table border="0" style="width: 100%;"> <tr> <td style="width: 5%;">1</td> <td style="width: 20%;">03/29/2005</td> <td style="width: 15%;">(350706)</td> </tr> <tr> <td>2</td> <td>05/14/2008</td> <td>(657187)</td> </tr> <tr> <td>3</td> <td>07/03/2008</td> <td>(636989)</td> </tr> </table> | 1 | 03/29/2005 | (350706) | 2 | 05/14/2008 | (657187) | 3 | 07/03/2008 | (636989) |
| 1 | 03/29/2005 | (350706) | | | | | | | | | |
| 2 | 05/14/2008 | (657187) | | | | | | | | | |
| 3 | 07/03/2008 | (636989) | | | | | | | | | |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) | | | | | | | | | | |
| F. | Environmental audits. | N/A | | | | | | | | | |
| G. | Type of environmental management systems (EMSs). | N/A | | | | | | | | | |
| H. | Voluntary on-site compliance assessment dates. | N/A | | | | | | | | | |
| I. | Participation in a voluntary pollution reduction program. | N/A | | | | | | | | | |
| J. | Early compliance. | N/A | | | | | | | | | |

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
H & W PETROLEUM COMPANY,
INC.
RN100539378

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§
§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1219-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding H & W Petroleum Company, Inc. ("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, represented by Laura J. Riese of the law firm of Davis Graham & Stubbs LLP, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a new oil products distribution center located at 2509 West Frank Street in Lufkin, Angelina County, Texas (the "Site").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 8, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Eight Hundred Seventy-Five Dollars (\$1,875) is assessed by the Commission in settlement of the violations alleged in Section II

- ("Allegations"). The Respondent has paid One Thousand Five Hundred Dollars (\$1,500) of the administrative penalty and Three Hundred Seventy-Five Dollars (\$375) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. On February 16, 2008, began emergency response actions including placing containment and sorbent booms at the Site;
 - b. On February 16, 2008, cut a berm around the Site and created containment sumps at the Site;
 - c. On February 17, 2008, resumed removing the wastewater and collecting samples of the discharge;
 - d. On February 25, 2008, properly disposed of contaminated soil; and
 - e. On February 25, 2008, developed procedures to dispose of uncontaminated storm water from the Site's secondary containment areas to the City of Lufkin wastewater treatment facility.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 11. 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.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, on February 16, 2008, the Respondent notified the TCEQ Beaumont Regional Office that a spill of approximately 3,600 gallons of oil and diesel and an unknown amount of associated wastewater was released onto the ground from a 16,000 gallon tank. Heavy rainfall on February 16, 2008 caused the material to migrate into state waters via a tributary to Hurricane Creek located at the rear of the Site, in violation of TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on February 20, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: H & W Petroleum Company, Inc., Docket No. 2008-1219-WQ-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 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 Site operations referenced in this Agreed Order.
3. 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.
4. 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sullivan
For the Executive Director

11/3/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Paul C Vinger
Signature

Paul C Vinger
Name (Printed or typed)
Authorized Representative of
H & W Petroleum Company, Inc.

8/20/2008
Date
Senior Vice President of
Corporate Planning and Fleet Operations
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.

