

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1555-IWD-E **TCEQ ID:** RN105006472 **CASE NO.:** 34683  
**RESPONDENT NAME:** R. A. Bagwell Oil Company, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> R. A. Bagwell Oil, 10501 Highway 67, near Rowena, Runnels County</p> <p><b>TYPE OF OPERATION:</b> Petroleum contaminated remediation site with a wastewater treatment 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 March 10, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Alex Kvapil, President, R. A. Bagwell Oil Company, Inc., P.O. Box 491, Ballinger, Texas 76821  <b>Respondent's Attorney:</b> Mr. Bill Thompson, Grissom &amp; Thompson, LLP, 609 West 10th Street, Austin, Texas 78701</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 27, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 3, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failed to comply with permitted effluent limitations for Total Lead, Polynuclear Aromatic Hydrocarbons, Benzene Ethylbenzene, Toluene, Xylene, and Total Benzene [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG830245, Part III, Section A, Effluent Limitations].</p> <p>2) Failed to sample for Polynuclear Aromatic Hydrocarbons during the month of January 2007 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXG830245, Part IV, Standard Monitoring and Reporting Requirement No. 7(a)].</p>	<p><b>Total Assessed:</b> \$9,850</p> <p><b>Total Deferred:</b> \$1,970  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$7,880</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>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. During March 2007, started sampling for Polynuclear Aromatic Hydrocarbons; and</p> <p>b. By July 17, 2007, shut down the groundwater remediation system and ceased discharging effluent until an approved secondary treatment process that will ensure compliance with permitted effluent limitations can be implemented on the system.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 180 days after the effective date of this Agreed Order, achieve compliance with the permitted effluent limitations of TPDES General Permit No. TXG830245; and</p> <p>b. Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a. The certification shall include specific corrective actions that were implemented at the Facility to achieve compliance with the permitted effluent limitations 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 certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): TXG830245



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

<b>DATES</b>	Assigned	6-Aug-2007	Screening	19-Sep-2007	EPA Due	
	PCW	24-Sep-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	R. A. Bagwell Oil Company, Inc.		
Reg. Ent. Ref. No.	RN105006472		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34683	No. of Violations	2	
Docket No.	2007-1555-IWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen	
Multi-Media		EC's Team	EnforcementTeam 1	
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**  Enhancement Subtotals 2, 3, & 7

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply**  Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

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

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

**Screening Date** 19-Sep-2007

**Docket No.** 2007-1555-IWD-E

**PCW**

**Respondent** R. A. Bagwell Oil Company, Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 34683

PCW Revision September 19, 2007

**Reg. Ent. Reference No.** RN105006472

**Media [Statute]** Water Quality

**Enf. Coordinator** Lynley Doyen

**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> )	4	20%
	Other written NOVs	0	0%
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)** 20%

>> **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 self-reported four months of effluent quality violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

<b>Screening Date</b> 19-Sep-2007	<b>Docket No.</b> 2007-1555-IWD-E	<b>PCW</b>
<b>Respondent</b> R. A. Bagwell Oil Company, Inc.		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 34683		<small>PCW Revision September 19, 2007</small>
<b>Reg. Ent. Reference No.</b> RN105006472		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Lynley Doyen		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES General Permit No. TXG830245, Part III, Section A, Effluent Limitations	
<b>Violation Description</b>	Failed to comply with permitted effluent limitations as detailed in the attached effluent violation table, as documented during a record review conducted on July 27, 2007.	
	<b>Base Penalty</b>	\$10,000

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

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

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed protective levels.				

**Adjustment**

**Violation Events**

Number of Violation Events <input type="text" value="3"/>	<input type="text" value="93"/>	Number of violation days												
<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	x	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>		<b>Violation Base Penalty</b> <input type="text" value="\$7,500"/>
daily	<input type="text"/>													
monthly	x													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													

Three monthly events are recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$667"/>	Violation Final Penalty Total <input type="text" value="\$9,234"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$9,234"/>	

### Economic Benefit Worksheet

**Respondent** R. A. Bagwell Oil Company, Inc.  
**Case ID No.** 34683  
**Reg. Ent. Reference No.** RN105006472  
**Media** Water Quality  
**Violation No.** 1

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

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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)	\$10,000	1-Dec-2006	1-Apr-2008	1.3	\$667	n/a	\$667

Notes for DELAYED costs

Estimated cost associated with purchasing and installing a carbon filter module for secondary treatment. Date required is the initial month of noncompliance. 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

\$10,000

TOTAL

\$667

<b>Screening Date</b> 19-Sep-2007	<b>Docket No.</b> 2007-1555-IWD-E	<b>PCW</b>														
<b>Respondent</b> R. A. Bagwell Oil Company, Inc.		<i>Policy Revision 2 (September 2002)</i>														
<b>Case ID No.</b> 34683		<i>PCW Revision September 19, 2007</i>														
<b>Reg. Ent. Reference No.</b> RN105006472																
<b>Media [Statute]</b> Water Quality																
<b>Enf. Coordinator</b> Lynley Doyen																
<b>Violation Number</b> <input type="text" value="2"/>																
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXG830245, Part IV, Standard Monitoring and Reporting Requirement No. 7(a)															
<b>Violation Description</b>	Failed to sample for Polynuclear Aromatic Hydrocarbons during the month of January 2007, as documented during a record review conducted on July 27, 2007.															
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>														
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																
OR	<b>Release</b>	<b>Harm</b>														
		Major    Moderate    Minor														
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>												
	Potential	<input type="text"/>	<input type="text" value="x"/>	<b>Percent</b> <input type="text" value="5%"/>												
<b>&gt;&gt; Programmatic Matrix</b>																
	Falsification	Major	Moderate	Minor												
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>											
<b>Matrix Notes</b>	<input type="text" value="Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels."/>															
	<b>Adjustment</b>	<input type="text" value="\$9,500"/>														
		<input type="text" value="\$500"/>														
<b>Violation Events</b>																
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="31"/>	<b>Number of violation days</b>												
<i>mark only one with an x</i>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text" value="x"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text" value="x"/>			<b>Violation Base Penalty</b> <input type="text" value="\$500"/>
daily	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text" value="x"/>															
	<input type="text" value="One single event is recommended."/>															
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>													
	<b>Estimated EB Amount</b>	<input type="text" value="\$22"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$616"/>												
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$616"/>												

## Economic Benefit Worksheet

**Respondent** R. A. Bagwell Oil Company, Inc.  
**Case ID No.** 34683  
**Reg. Ent. Reference No.** RN105006472  
**Media** Water Quality  
**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	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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$250	1-Jan-2007	31-Jan-2007	0.1	\$1	\$21	\$22
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

Estimated cost associated with properly sampling for Polynuclear Aromatic Hydrocarbons. Date required is the month samples were not collected. Final date is the date of compliance.

Approx. Cost of Compliance

\$250

**TOTAL**

\$22

R. A. Bagwell Oil Company, Inc.  
 RN105006472  
 Docket No. 2007-1555-IWD-E  
 Effluent Violation Table

	Total Lead Permit Daily Maximum Limit = 0.10 mg/L	Polynuclear Aromatic Hydrocarbons Daily Average Permit Limit = 0.01 mg/L	Polynuclear Aromatic Hydrocarbons Daily Maximum Permit Limit = 0.01 mg/L	Total BTEX Daily Average Permit Limit = 0.01 mg/L	Total BTEX Daily Maximum Permit Limit = 0.01 mg/L	Benzene Daily Average Permit Limit = 0.005 mg/L	Benzene Daily Maximum Permit Limit = 0.005 mg/L
12/2006	c	0.14	0.14	0.1553	0.1553	0.055	0.055
01/2007	c	N/A	N/A	c	c	0.0067	0.0143
03/2007	0.108	c	c	c	c	c	0.0114

c = compliant

mg/L = milligrams per liter

N/A = not available

BTEX = Benzene, Ethylbenzene, Toluene, Xylene



## Compliance History

Customer/Respondent/Owner-Operator: CN601243363 R. A. Bagwell Oil Company, Inc. Classification: Average Rating: 2.61  
Regulated Entity: RN105006472 R A BAGWELL OIL Classification: Average Site Rating: 0.92  
ID Number(s): WASTE WATER GENERAL PERMIT PERMIT TXG830245  
Location: 10501 HIGHWAY 67, NEAR ROWENA, RUNNELS COUNTY Rating Date: 9/1/2007 Repeat Violator: NO  
TCEQ Region: REGION 03 – ABILENE  
Date Compliance History Prepared: September 19, 2007  
Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 19, 2002 to September 19, 2007

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

Name: Laurie Eaves Phone: 512/239-4495

### 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.)

- 1 10/18/2006 (553609)
- 2 10/18/2006 (553610)
- 3 10/18/2006 (553611)
- 4 01/18/2007 (593023)
- 5 01/18/2007 (593024)
- 6 01/18/2007 (593025)
- 7 04/09/2007 (593018)
- 8 04/09/2007 (593019)
- 9 04/09/2007 (593020)
- 10 07/24/2007 (593021)
- 11 07/24/2007 (593022)
- 12 08/03/2007 (570217)

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

Date: 12/31/2006 (593025)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007 (593018)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007 (593020)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2007 (593022)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING R. A. BAGWELL OIL  
COMPANY, INC.  
RN105006472

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-1555-IWD-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding R. A. Bagwell Oil 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 Bill Thompson of the law firm of Grissom & Thompson, LLP, appear before the Commission and together stipulate that:

1. The Respondent owns a petroleum contaminated remediation site with a wastewater treatment facility located at 10501 Highway 67 near Rowena, Runnels 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. 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 August 8, 2007.
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 Nine Thousand Eight Hundred Fifty Dollars (\$9,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").



The Respondent has paid Seven Thousand Eight Hundred Eighty Dollars (\$7,880) of the administrative penalty and One Thousand Nine Hundred Seventy Dollars (\$1,970) 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 Facility:
  - a. During March 2007, started sampling for Polynuclear Aromatic Hydrocarbons; and
  - b. By July 17, 2007, shut down the groundwater remediation system and ceased discharging effluent until an approved secondary treatment process that will ensure compliance with permitted effluent limitations can be implemented on the system.
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 of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG830245, Part III, Section A, Effluent Limitations, as documented during a record review conducted on July 27, 2007, and shown in the following table:



	Total Lead Permit Daily Maximum Limit = 0.10 mg/L	Polynuclear Aromatic Hydrocarbons Daily Average Permit Limit = 0.01 mg/L	Polynuclear Aromatic Hydrocarbons Daily Maximum Permit Limit = 0.01 mg/L	Total BTEX Daily Average Permit Limit = 0.01 mg/L	Total BTEX Daily Maximum Permit Limit = 0.01 mg/L	Benzene Daily Average Permit Limit = 0.005 mg/L	Benzene Daily Maximum Permit Limit = 0.005 mg/L
12/2006	c	0.14	0.14	0.1553	0.1553	0.055	0.055
01/2007	c	N/A	N/A	c	c	0.0067	0.0143
03/2007	0.108	c	c	c	c	c	0.0114

c = compliant      mg/L = milligrams per liter      N/A = not available      BTEX = Benzene, Ethylbenzene, Toluene, Xylene

2. Failed to sample for Polynuclear Aromatic Hydrocarbons during the month of January 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXG830245, Part IV, Standard Monitoring and Reporting Requirement No. 7(a), as documented during a record review conducted on July 27, 2007.

### 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: R. A. Bagwell Oil Company, Inc., Docket No. 2007-1555-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 180 days after the effective date of this Agreed Order, achieve compliance with the permitted effluent limitations of TPDES General Permit No. TXG830245; and
  - b. Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a. The certification shall include specific corrective actions that were implemented at the Facility to achieve compliance with the permitted effluent limitations 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 certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate



compliance with this Ordering Provision and 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  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

3. 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.
4. 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.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
6. 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.



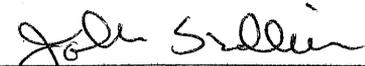
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), 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

  
\_\_\_\_\_  
For the Executive Director

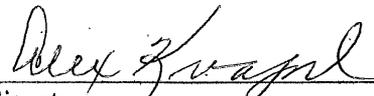
\_\_\_\_\_  
Date 3/5/2008

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 12-17-07

ALEX KVAPIL  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
R. A. Bagwell Oil Company, Inc.

  
\_\_\_\_\_  
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.

STANDARD FORM NO. 100

OFFICE OF THE ATTORNEY GENERAL

For the Commission

For the Executive Director

The undersigned, Attorney General of the State of Texas, do hereby certify that the enclosed copy of the report of the Commission on the operations of the State of Texas, as required by the provisions of Article VII, Section 1, of the Constitution of the State of Texas, is a true and correct copy of the report as the same appears in the report of the Commission on the operations of the State of Texas, as required by the provisions of Article VII, Section 1, of the Constitution of the State of Texas.

I also certify that the enclosed copy of the report of the Commission on the operations of the State of Texas, as required by the provisions of Article VII, Section 1, of the Constitution of the State of Texas, is a true and correct copy of the report as the same appears in the report of the Commission on the operations of the State of Texas, as required by the provisions of Article VII, Section 1, of the Constitution of the State of Texas.

- A copy of this report is being furnished to the Commission on the operations of the State of Texas, as required by the provisions of Article VII, Section 1, of the Constitution of the State of Texas.
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In addition to the distribution of the report of the Commission on the operations of the State of Texas, as required by the provisions of Article VII, Section 1, of the Constitution of the State of Texas, a copy of the report is being furnished to the Commission on the operations of the State of Texas, as required by the provisions of Article VII, Section 1, of the Constitution of the State of Texas.

\_\_\_\_\_  
Attorney General

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Attorney General

\_\_\_\_\_  
R. A. Howarth Oil Company, Inc.  
Attorney General  
(Printed name)

Notarially attested and signed by me, Notary Public for the State of Texas, on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, Texas.