

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2007-0794-AIR-E TCEQ ID: RN100248749 CASE NO.: 33526**

**RESPONDENT NAME: SOUTHWEST SHIPYARD, L.P.**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input checked="" 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 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> 18310 Market Street, Channelview, Harris County</p> <p><b>TYPE OF OPERATION:</b> Maintenance facility where barges are sandblasted, painted, depressurized, degassed and cleaned</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" 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.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 21, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500                  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>SEP Coordinator:</b> Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223  <b>TCEQ Enforcement Coordinator:</b> Mr. Craig Fleming, Air Enforcement Section, MC 149, (512) 239-5806  <b>TCEQ Regional Contact:</b> Ms. Linda Vasse, Houston Regional Office, MC R-12, (713) 767-3637  <b>Respondent:</b> Mr. Sanjay Rao, President, Southwest Shipyard, L.P., P.O. Box 24309, Houston, Texas 77229  <b>Respondent's Attorney:</b> Ms. Patricia Finn Braddock, Fulbright &amp; Jaworski, LLP, 600 Congress Avenue, Suite 2400, Austin, Texas 78701-2978</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Dates of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigations Relating to this Case:</b> February 14, 2007, February 22, 2007, March 19, 2007, April 24, 2007, April 25, 2007 and May 4, 2007</p> <p><b>Dates of NOEs Relating to this Case:</b> May 7, 2007, June 29, 2007 and September 7, 2007</p> <p><b>Background Facts:</b> The case was referred to the Litigation Division on October 5, 2007. A signed Agreed order was received on December 3, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>AIR:</b></p> <p>1. Failed to route emissions from the barge cleaning operations to a vapor collection system. Specifically, benzene was emitted from the barge cleaning operation directly to the atmosphere for 12 hours beginning January 20, 2007 and ending January 21, 2007; for 14 hours on February 7, 2007; and for 12 hours on March 13, 2007 [30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH &amp; SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 8].</p> <p>2. Failed to operate according to representations made in the permit application for New Source Review Permit No. 9442. Specifically, 976 gallons of benzene were removed from the Kirby Barge No. 25002, to an on-site tank truck, then from the tank truck to an on-site tank (Tank No. A 402) on February 6, 2007, instead of transporting the recovered product and associated vapors via pipeline to existing onsite above ground storage tanks, drums, or tanker trucks [30 TEX. ADMIN. CODE § 116.116(a)(1), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$77,276</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$38,638</p> <p><b>Total Paid to General Revenue:</b> \$38,638</p> <p>The Respondent has paid \$38,638 of the \$77,276 administrative penalty. The remaining amount of \$38,638 of the administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> The violations were a gross deviation from a standard of conduct common in a given industry defined as indifference to legal duty.</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Immediately, begin transporting recovered products and associated vapors via pipeline in accordance with the representations made in the permit application or as described in any approved permit amendments.</p> <p>2. Within 30 days:</p> <p>a. Provide additional training and oversight of employees to ensure that emissions are controlled through the use of vapor collection system during degassing and cleaning operations;</p> <p>b. Develop and begin implementing procedures to ensure that tank truck loading and offloading do not exceed the 300 gph limit stipulated in the existing New Source Review Permit No. 9442 or the limits specified in any approved amendment to the existing New Source Review Permit No. 9442; and</p> <p>c. Provide additional training and oversight to employees to ensure that emissions are controlled during the degassing procedures prior to initiating barge wash operations.</p> <p>3. Within 45 days, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 1 and 2.</p>

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to maintain the maximum loading rate limit of 300 gph. Specifically, Southwest Shipyard exceeded 300 gallons per hour on February 6, 2007, when loading benzene from Kirby Barge No. 25002 at a rate of 325 gph, and from truck to Tank No. 402 at a rate of 1,952 gph resulting in high level benzene releases to the atmosphere [30 TEX. ADMIN. CODE § 116.115 (c); TEX. HEALTH &amp; SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 15(H)].</p> <p>4. Failed to design and operate degassing and cleaning equipment to prevent VOC leaks. Specifically, the tanks on the Kirby Barge No. 24305 failed to maintain a negative pressure (pressure gauge read 0 psig). Also, benzene emissions were seen with the use of the GasFindR camera, and a TVQ reading of 300 ppm was recorded outside the cargo tank hatch during the cleaning and degassing operations [30 TEX. ADMIN CODE § 115.542(b)(2) and (3); TEX. HEALTH &amp; SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 8].</p> <p>5. Failed to operate according to representations made in the 2000 permit application for New Source Review Permit No. 9442. Specifically, Respondent represented that the degassing of the barges was to be conducted prior to initiating barge wash operations; however, it was observed during the cleaning and degassing of Kirby Barge No. 24305 on April 24, 2007, that the wash water (on vapor control) was conducted prior to degassing [30 TEX. ADMIN. CODE § 116.116(a)(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>6. Failed to route emissions from barge cleaning operations to a vapor collection system. Specifically, benzene emissions (13 ppm) were emitted on April 24, 2007, from barge (Kirby Barge No. 24305) cleaning operations directly to the atmosphere [30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH &amp; SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 10A].</p>		

**VIOLATION SUMMARY CHART:**

<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p>7. Failed to operate according to representations made in the 2000 permit application for New Source Review Permit No. 9442. Specifically, Respondent represented that the degassing of the barges was to be conducted prior to initiating barge wash operation; however, it was observed during the cleaning and degassing of Kirby Barge Nos. 10313 and 10423 on April 30, 2007, that the wash water (on vapor control) was conducted prior to degassing [30 TEX. ADMIN. CODE 116.116(a)(1); TEX. HEALTH &amp; SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 10. A].</p> <p>8. Failed to route emissions from barge cleaning operations to a vapor collection system. Specifically, benzene emissions were emitted to the atmosphere beginning at 2:00 a.m. (Kirby Barge No. 10313) and 8:45 p.m. (Kirby Barge No. 10423) on May 1, 2007, from barge cleaning operations directly to the atmosphere [30 TEX. ADMIN. CODE § 116.115(c); TEXAS HEALTH &amp; SAFETY CODE § 382.085(b) and New Source Review Permit No. 9442, Special Condition No. 8].</p>		

Attachment A  
PROJECT Docket Number: 2007-0794-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** Southwest Shipyard, L.P.

**Penalty Amount:** Seventy-seven thousand two hundred seventy-six dollars  
(\$77,276)

**SEP Amount:** Thirty-eight thousand six hundred thirty-eight dollars  
(\$38,638)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Harris County Fourier Transform Infra Red (FTIR) Air  
Monitoring

**Location of SEP:** Harris 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 the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, Harris County shall perform Fourier Transform Infra Red (FTIR) air monitoring, equipment operation and equipment maintenance. The FTIR will analyze volatile organic compounds in ambient air. SEP monies will fund the lease/contract for services of the FTIR and related equipment, as well as the operation and maintenance of the FTIR site. SEP monies will also be used to pay for equipment, software, and programming associated with Internet connectivity and automated data ingestion.

The Respondent certifies that it has 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 providing measurements of concentrations of certain air pollutants. The information obtained from this monitoring site will provide the community with more knowledge of the types and quantities of pollutants present in the area. Data obtained from the monitoring site, and made available to the public, may be used by the TCEQ, EPA, scientists, local government and industry to reduce emissions, as appropriate. Because air quality is an important priority in the Harris County area, this Project is focused on providing air quality data that may be used by the TCEQ, local programs, and other stakeholders to investigate and improve knowledge of any identified air quality concerns.

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:

Mr. Chris Barry  
Harris County Public Health and Environmental Services  
Pollution Control Division  
107 North Munger (hand delivery)  
P.O. Box 6031 (U. S. Mail only)  
Pasadena, Texas 77506

**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:

Litigation Division  
Attention: SEP Coordinator, MC 175  
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.

In the event of incomplete performance, the Respondent shall submit a check for any amount due with a notation that the payment is for a "SEP Refund", and the docket number of the case. The Respondent shall make the check out to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**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 a 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 April 26, 2007

**TCEQ**

DATES	Assigned	10-Sep-2007	Screening	15-Sep-2007	EPA Due	
	PCW	1-Nov-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Southwest Shipyard, L.P.		
Reg. Ent. Ref. No.	RN100248749		
Facility/Site Region	12-Houston	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	33526	No. of Violations	8
Docket No.	2007-0794-AIR-E	Order Type	Findings
Media Program(s)	Air	Enf. Coordinator	J. Craig Fleming
Multi-Media		EC's Team	3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$64,000

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

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

**Compliance History** 156% Enhancement Subtotals 2, 3, & 7 \$99,840

Notes: A 156% enhancement is recommended for having 44 self-reporting NOV's for effluent discharges, four non-similar NOV's, and three enforcement orders containing a denial of liability.

**Culpability** No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 0% Reduction Subtotal 5 \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

**Total EB Amounts** \$30,123 50% Enhancement\* Subtotal 6 \$30,123  
 Approx. Cost of Compliance \$32,500 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal \$193,963

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment \$0

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

Notes

**Final Penalty Amount** \$193,963

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$77,276

**DEFERRAL** 0% Reduction Adjustment \$0

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

Notes

No deferral offered with a Findings Order.

**PAYABLE PENALTY** \$77,276

Screening Date 15-Sep-2007

Docket No. 2007-0794-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33526

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	48	96%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	3	60%
	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) 156%

>> 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

A 156% enhancement is recommended for having 44 self-reporting NOVs for effluent discharges, four non-similar NOVs, and three enforcement orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 156%

Screening Date 15-Sep-2007

Docket No. 2007-0794-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33526

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 9442, Special Condition 8

Violation Description Failed to route emissions from the barge cleaning operations to a vapor collection system. Specifically, benzene was emitted from the barge cleaning operations directly to the atmosphere for 12 hours beginning January 20, 2007 and ending January 21, 2007, for 14 hours on February 7, 2007, and for 12 hours on March 13, 2007.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="100%"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

OR

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="0%"/>

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation. This release contributed to a high level benzene exceedance at the Lynchburg Ferry monitoring station.

Adjustment

Violation Events

Number of Violation Events  Number of violation days

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

Violation Base Penalty

Three single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

Respondent Southwest Shipyard, L.P.

Case ID No. 33526

Reg. Ent. Reference No. RN100248749

Media Air

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				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

NA

### 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]	\$15,000	20-Jan-2007	1-Jan-2008	1.9	\$1,399	\$15,000	\$16,399
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated cost saved by not routing the emissions to a vapor collection system (\$5000 per barge for three cleaning events) during barge cleaning operations. The Date Required was the date the noncompliances started. The Final Date is the expected date of compliance.

Approx. Cost of Compliance

\$15,000

TOTAL

\$16,399

Screening Date 15-Sep-2007

Docket No. 2007-0794-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33526

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.116(a)(1), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to operate according to representations made in the permit application for New Source Review Permit No. 9442. Specifically, 976 gallons of benzene was removed from the Kirby Barge No. 25002, to an on-site tank truck, then from the tank truck to an on-site tank (Tank No. A402) on February 6, 2007, instead of transporting the recovered product and associated vapors via pipeline to existing onsite above ground storage tanks, drums, or tanker trucks.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,727

Violation Final Penalty Total \$3,031

This violation Final Assessed Penalty (adjusted for limits) \$3,031

## Economic Benefit Worksheet

Respondent Southwest Shipyard, L.P.

Case ID No. 33526

Reg. Ent. Reference No. RN100248749

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

### 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

NA

### 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]	\$2,500	6-Feb-2007	1-Jan-2008	1.8	\$227	\$2,500	\$2,727
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated cost saved for the improper transferring of product during barge cleaning operations. The Date Required was the date the noncompliances started. The Final Date is the expected date of compliance.

Approx. Cost of Compliance

\$2,500

TOTAL

\$2,727

Screening Date 15-Sep-2007

Docket No. 2007-0794-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33526

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 9442, Special Condition 15(H)

Violation Description

Failed to maintain the maximum loading rate limit of 300 gallons per hour ("gph"). Specifically, the respondent exceeded 300 gallons per hour on February 6, 2007, when loading benzene from Kirby Barge No. 25002 at a rate of 325 gph, and from truck to Tank No. 402 at a rate of 1,952 gph resulting in high level benzene releases to the atmosphere.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			100%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation. The release while unloading benzene from the Kirby Barge No. 25002 contributed to a high level benzene exceedance at the Lynchburg Ferry monitoring station.

Adjustment \$0

\$10,000

Violation Events

Number of Violation Events 2 Number of violation days 1

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$20,000

Two single events (one for each unit) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,182

Violation Final Penalty Total \$60,613

This violation Final Assessed Penalty (adjusted for limits) \$10,000

## Economic Benefit Worksheet

**Respondent:** Southwest Shipyard, L.P.  
**Case ID No.:** 33526  
**Reg. Ent. Reference No.:** RN100248749  
**Media:** Air  
**Violation No.:** 3

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				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

NA

### 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]	\$2,000	6-Feb-2007	1-Jan-2008	1.8	\$182	\$2,000	\$2,182
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated cost saved by increasing the loading rate per tank. The Date Required was the date the noncompliances started. The Final Date is the expected date of compliance.

Approx. Cost of Compliance

\$2,000

TOTAL

\$2,182

Screening Date 15-Sep-2007

Docket No. 2007-0794-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33526

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 115.542(b)(2) and (3), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 9442, Special Condition 8

Violation Description

Failed to design and operate degassing and cleaning equipment to prevent VOC leaks. Specifically, the tanks on Kirby Barge No. 24305 failed to maintain a negative pressure (pressure gauge read 0 psig). Also, benzene emissions were seen with the use of the GasFindIR camera, and a TVA reading of 300 ppm was recorded outside the cargo tank hatch during the cleaning and degassing operations conducted on April 24, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	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 the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	X	

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,575

Violation Final Penalty Total \$7,577

This violation Final Assessed Penalty (adjusted for limits) \$7,577

## Economic Benefit Worksheet

**Respondent** Southwest Shipyard, L.P.  
**Case ID No.** 33526  
**Reg. Ent. Reference No.** RN100248749  
**Media Air**  
**Violation No.** 4

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				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$5,000	24-Apr-2007	1-Jan-2008	0.7	\$173	n/a	\$173
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to modify the design and operations of the degassing and cleaning equipment in order to prevent VOC leaks and maintain a negative pressure inside the tank. The Date Required was the date the noncompliance started. The Final Date is the expected date of compliance.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
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]	\$5,000	24-Apr-2007	1-Jan-2008	1.6	\$402	\$5,000	\$5,402
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated cost saved by not routing the emissions to a vapor collection system designed and operated without VOC leaks (\$5000 per barge) during barge cleaning operations. The Date Required was the date the noncompliances started. The Final Date is the expected date of compliance.

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$5,575

Screening Date 15-Sep-2007

Docket No. 2007-0794-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33526

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 116.116(a)(1), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to operate according to representations made in the 2000 permit application for New Source Review Permit No. 9442. Specifically, the respondent represented that the degassing of the barges was to be conducted prior to initiating barge wash operations; however, it was observed during the cleaning and degassing of Kirby Barge No. 24305 on April 24, 2007, that the wash water (on vapor control) was conducted prior to degassing.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential			X	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,080

Violation Final Penalty Total \$3,031

This violation Final Assessed Penalty (adjusted for limits) \$3,031

## Economic Benefit Worksheet

**Respondent** Southwest Shipyard, L.P.  
**Case ID No.** 33526  
**Reg. Ent. Reference No.** RN100248749  
**Media** Air  
**Violation No.** 5

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

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				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)

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]	\$1,000	24-Apr-2007	1-Jan-2008	1.6	\$80	\$1,000	\$1,080
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated cost saved by not degassing the barge prior to initiating barge wash operations. The Date Required was the date the noncompliances started. The Final Date is the expected date of compliance.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1,080

Screening Date 15-Sep-2007

Docket No. 2007-0794-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33526

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 9442, Special Condition 10.A

Violation Description Failed to route emissions from the barge cleaning operations to a vapor collection system. Specifically, benzene emissions (13 ppm) were emitted on April 24, 2007, from the barge cleaning operations directly to the atmosphere.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	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 the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,577

This violation Final Assessed Penalty (adjusted for limits) \$7,577

## Economic Benefit Worksheet

Respondent Southwest Shipyard, L.P.

Case ID No. 33526

Reg. Ent. Reference No. RN100248749

Media Air

Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

See Violation No. 1

### Avoided Costs

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

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

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 15-Sep-2007

Docket No. 2007-0794-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33526

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 116.116(a)(1), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 9442, Special Condition 10.A

Violation Description

Failed to operate according to representations made in the 2000 permit application for New Source Review Permit No. 9442. Specifically, the respondent represented that the degassing of the barges was to be conducted prior to initiating barge wash operations; however, it was observed during the cleaning and degassing of Kirby Barge No. 10313 and 10423 on April 30, 2007, that the wash water (on vapor control) was conducted prior to degassing.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

2 1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,000

Two single events (one for each incident) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,159

Violation Final Penalty Total \$6,061

This violation Final Assessed Penalty (adjusted for limits) \$6,061

## Economic Benefit Worksheet

Respondent Southwest Shipyard, L.P.

Case ID No. 33526

Reg. Ent. Reference No. RN100248749

Media Air

Violation No. 7

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				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

NA

### 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]	\$2,000	30-Apr-2007	1-Jan-2008	1.6	\$159	\$2,000	\$2,159
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated cost saved by not degassing the barge prior to initiating barge wash operations. The Date Required was the date the noncompliance started. The Final Date is the expected date of compliance.

Approx. Cost of Compliance

\$2,000

TOTAL

\$2,159

Screening Date 15-Sep-2007

Docket No. 2007-0794-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33526

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator J. Craig Fleming

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c), Tex. Health & Safety Code § 382.085(b), and New Source Review Permit No. 9442, Special Condition 8

Violation Description

Failed to route emissions from the barge cleaning operations to a vapor collection system. Specifically, benzene emissions were emitted to the atmosphere beginning at 2:00 a.m. (Kirby Barge No. 10313) and 8:45 p.m. (Kirby Barge No. 10423) on May 1, 2007, from the barge cleaning operations directly to the atmosphere.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	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 insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

2

1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Two single events (one for each incident) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$15,153

This violation Final Assessed Penalty (adjusted for limits) \$10,000

## Economic Benefit Worksheet

Respondent Southwest Shipyard, L.P.

Case ID No. 33526

Reg. Ent. Reference No. RN100248749

Media Air

Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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

See Violation No. 1

### Avoided Costs

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

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

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$0

TOTAL

\$0

# Compliance History

Customer/Respondent/Owner-Operator: CN600135354 Southwest Shipyard, L.P. Classification: AVERAGE Rating: 6.40  
 Regulated Entity: RN100248749 SOUTHWEST SHIPYARD Classification: AVERAGE Site Rating: 2.50

ID Number(s):	WASTE WATER GENERAL PERMIT	PERMIT	2E0000020
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0686T
	AIR OPERATING PERMITS	PERMIT	1260
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000820274
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31208
	WASTEWATER	PERMIT	WQ0002605000
	WASTEWATER	PERMIT	TPDES0092282
	WASTEWATER	PERMIT	TX0092282
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	59001
	AIR NEW SOURCE PERMITS	PERMIT	4759
	AIR NEW SOURCE PERMITS	PERMIT	9442
	AIR NEW SOURCE PERMITS	PERMIT	12182
	AIR NEW SOURCE PERMITS	PERMIT	23134
	AIR NEW SOURCE PERMITS	PERMIT	34783
	AIR NEW SOURCE PERMITS	PERMIT	36241
	AIR NEW SOURCE PERMITS	PERMIT	35585
	AIR NEW SOURCE PERMITS	PERMIT	35353
	AIR NEW SOURCE PERMITS	PERMIT	43774
	AIR NEW SOURCE PERMITS	PERMIT	43909
	AIR NEW SOURCE PERMITS	PERMIT	44294
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0686T
	AIR NEW SOURCE PERMITS	PERMIT	54007
	AIR NEW SOURCE PERMITS	AFS NUM	4820100826
	AIR NEW SOURCE PERMITS	REGISTRATION	75783
	AIR NEW SOURCE PERMITS	PERMIT	55646
	AIR NEW SOURCE PERMITS	REGISTRATION	74600
	AIR NEW SOURCE PERMITS	REGISTRATION	75319
	AIR NEW SOURCE PERMITS	REGISTRATION	77255
	AIR NEW SOURCE PERMITS	REGISTRATION	78546
	AIR NEW SOURCE PERMITS	REGISTRATION	81480
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012781
	STORMWATER	PERMIT	TXR05L565
	WASTEWATER LICENSING	LICENSE	WQ0002605000
	WATER LICENSING	LICENSE	1012781
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31208

Location: 18310 Market Street, Channelview, Harris County, Texas Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 15, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 15, 2002 to May 15, 2007

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

Name: J. Craig Fleming Phone: (512) 239-5806

### Site Compliance History Components

- |  |            |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes        |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No         |
| 3. If Yes, who is the current owner?   | <u>N/A</u> |
| 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.

- 1 Effective Date: 12/12/2002 ADMINORDER 2002-0537-AIR-E  
Classification: Minor  
Citation: 30 TAC Chapter 101, SubChapter H 101.360(a)[G]  
5C THC Chapter 382, SubChapter A 382.085(b)  
Description: Failure to submit Form ECT-3, Level of Activity Certification by 6/30/01.
- 2 Effective Date: 10/11/2004 ADMINORDER 2003-1450-IHW-E  
Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)  
Description: Disposed of hazardous waste at an unauthorized disposal facility and placed four 55-gallon drums of hazardous waste in a trash compactor used for Class 1 plant trash.
- 3 Effective Date: 04/13/2007 ADMINORDER 2005-0097-MLM-E  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(B)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: O-01260, General Terms and Conditions OP  
Description: Failure to submit deviation reports for 2004 and for the first semiannual reporting period of 2005.  
Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: 9442, SC 11D PERMIT  
O-01260, SC 10 OP  
Description: Failed to install a continuous run time flow monitor to record average hourly values of flow and composition for FL-1 and FL-3.  
Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: 36241, SC 10C PERMIT  
O-01260, SC 10 OP  
Description: Failed to record and develop an accurate monthly report for VOC emissions in pounds per hour lbs/hr on a daily basis for Barge Rail Painting facility.  
Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: 43774, SC 16E PERMIT  
O-01260, SC 10 OP  
Description: Failed to record and develop an accurate monthly report for VOC emissions in lbs/hr on a daily basis for DD1, DD2 and DD3STK.  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: EF and MR No. 1 OP  
Description: Failure to comply with the permitted effluent limits at Outfall 001 for the months of March 2003, July 2003, October 2003, November 2003, December 2003, January 2004 and February 2004.  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL and MR NO. 1 OP

Description: Failure to comply with permitted effluent limits at Outfall 003. Specifically, Southwest was non-compliant with the Total Suspended Solids ("TSS") daily average limit of 50 milligrams per liter ("mg/L") for February 2004 with a reported value of 62 mg/L.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL and MR NO. 1 OP

Description: Failure to comply with the permitted effluent limits at Outfall 004 for the months of March 2003, May 2003, November 2003, December 2003, and February 2004.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL and MR NO. 1 OP

Description: Failure to comply with the permitted effluent limits at Outfall 005. Specifically, Southwest was non-compliant with the TSS daily average limit of 50 mg/L for August 2003 with a reported value of 90 mg/L.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL and MR No. 1 OP

Description: Failure to comply with the Ammonia Nitrogen effluent limit of 6 mg/L at Outfall 001. Specifically, grab samples taken indicated the following ammonia nitrogen levels: 17 mg/L on July 10, 2001; 10.8 mg/L on October 1, 2001; and 11.2 mg/L on September 27, 2002.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL & MR No. 1 OP

Description: Failure to comply with the permitted effluent limits at Outfall 006. Specifically, Southwest was non-compliant with the Chemical Oxygen Demand daily maximum limit of 150 mg/L for April 2003 with a reported value of 178 mg/L.

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	05/16/2002	(214127)
2	06/17/2002	(214130)
3	06/17/2002	(214116)
4	07/01/2002	(79927)
5	07/01/2002	(79928)
6	07/15/2002	(214133)
7	08/15/2002	(214137)
8	09/19/2002	(214140)
9	10/18/2002	(214143)
10	11/19/2002	(214147)
11	11/26/2002	(15918)
12	12/20/2002	(214150)
13	01/22/2003	(214154)
14	02/21/2003	(214134)
15	02/21/2003	(214115)
16	02/25/2003	(11827)
17	03/21/2003	(318987)
18	04/24/2003	(214123)
19	05/22/2003	(318991)
20	06/23/2003	(318994)
21	08/22/2003	(318998)
22	08/22/2003	(319002)

23	09/23/2003	(319000)
24	11/24/2003	(319003)
25	12/29/2003	(319004)
26	01/23/2004	(319005)
27	02/23/2004	(318986)
28	02/23/2004	(251425)
29	03/25/2004	(318989)
30	05/10/2004	(271652)
31	05/17/2004	(362123)
32	06/22/2004	(318992)
33	06/22/2004	(318995)
34	07/26/2004	(362124)
35	08/24/2004	(362125)
36	09/23/2004	(362126)
37	09/23/2004	(362127)
38	09/23/2004	(362129)
39	11/23/2004	(362128)
40	11/30/2004	(341461)
41	12/17/2004	(336782)
42	12/27/2004	(387534)
43	01/12/2005	(344032)
44	02/25/2005	(425259)
45	02/28/2005	(350825)
46	03/16/2005	(374296)
47	03/28/2005	(387533)
48	05/24/2005	(425260)
49	05/24/2005	(425261)
50	05/24/2005	(425263)
51	06/27/2005	(425262)
52	07/15/2005	(399621)
53	07/20/2005	(400393)
54	07/22/2005	(401264)
55	07/22/2005	(401526)
56	07/29/2005	(402214)
57	07/29/2005	(402207)
58	08/05/2005	(403530)
59	08/15/2005	(405185)
60	08/15/2005	(404723)
61	08/17/2005	(405682)
62	08/17/2005	(405561)
63	08/22/2005	(406438)
64	08/24/2005	(445848)
65	08/29/2005	(418286)
66	09/08/2005	(418488)
67	09/08/2005	(418359)
68	09/23/2005	(445849)
69	09/23/2005	(445850)
70	10/24/2005	(477804)
71	11/28/2005	(477805)
72	12/06/2005	(435708)
73	12/27/2005	(477806)
74	01/20/2006	(477807)
75	02/13/2006	(439838)
76	02/24/2006	(477802)
77	03/23/2006	(477803)
78	04/24/2006	(504260)
79	04/24/2006	(504263)
80	05/23/2006	(504261)
81	06/21/2006	(504262)
82	06/30/2006	(464066)
83	08/22/2006	(526607)
84	09/07/2006	(511322)
85	10/24/2006	(550776)

86 11/27/2006 (550777)  
 87 11/27/2006 (550778)  
 88 11/29/2006 (511970)  
 89 04/16/2007 (543446)  
 90 05/07/2007 (540997)  
 91 05/10/2007 (541065)

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

- 1 Date 05/31/2002 (214130)  
 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
- 2 Date 11/26/2002 (15918)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)  
 Description: Failure by the regulated entity to be under the direct supervision of a licensed water works operator.
- Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
 Description: Failure to make available sanitary control easements for well 1 at the time of inspection.
- Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
 Description: Failure to make available sanitary control easements for well 2 at the time of inspection.
- 3 Date 11/30/2002 (214150)  
 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
- 4 Date 01/31/2003 (214115)  
 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
- 5 Date 03/31/2003 (214123)  
 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
- 6 Date 04/30/2003 (318991)  
 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
- 7 Date 05/31/2003 (318994)  
 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
- 8 Date 07/31/2003 (318998)  
 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
- 9 Date 08/31/2003 (319000)  
 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
- 10 Date 09/30/2003 (319002)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

11	Description:	Failure to meet the limit for one or more permit parameter		
	Date	10/31/2003	(319003)	
	Self Report?	YES		13 Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
12	Description:	Failure to meet the limit for one or more permit parameter		
	Date	11/30/2003	(319004)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
13	Description:	Failure to meet the limit for one or more permit parameter		
	Date	12/31/2003	(319005)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
14	Description:	Failure to meet the limit for one or more permit parameter		
	Date	01/31/2004	(318986)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
15	Description:	Failure to meet the limit for one or more permit parameter		
	Date	02/29/2004	(318989)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
16	Description:	Failure to meet the limit for one or more permit parameter		
	Date	03/31/2004	(362123)	
	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		
17	Date	04/30/2004	(318992)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
18	Description:	Failure to meet the limit for one or more permit parameter		
	Date	05/31/2004	(318995)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
19	Description:	Failure to meet the limit for one or more permit parameter		
	Date	06/30/2004	(362124)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
20	Description:	Failure to meet the limit for one or more permit parameter.		
	Date	07/31/2004	(362125)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
21	Description:	Failure to meet the limit for one or more permit parameter		
	Date	08/31/2004	(362126)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
22	Description:	Failure to meet the limit for one or more permit parameter		
	Date	10/31/2004	(362128)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
		TWC Chapter 26 26.121(a)[G]		
23	Description:	Failure to meet the limit for one or more permit parameter		
	Date	11/30/2004	(387534)	
	Self Report?	YES		Classification Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		

24 Description: TWC Chapter 26 26.121(a)[G]  
 Failure to meet the limit for one or more permit parameter  
 Date 12/31/2004 (362129)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

25 Description: Failure to meet the limit for one or more permit parameter  
 Date 01/13/2005 (344032)  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT 02605-000  
 Description: Failure to calibrate the Outfall 001 flow meter, as required.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT 02605-000  
 Description: Failure to maintain compliance with the permitted effluent limits.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT 2605-000  
 Description: Failure to collect grab samples for the required permit parameters at Outfall  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)  
 30 TAC Chapter 319, SubChapter A 319.11(b)  
 Description: Failure to collect the oil & grease samples at Outfall 006, as required.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]  
 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Description: Failure to calibrate the pH meter, as required.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT 02605-000  
 Description: Failure to comply with the permitted effluent limits for Outfall 001.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)  
 Description: Failure to analyze the pH at Outfalls 003, 004, and 005 within the required  
 time.  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 319, SubChapter A 319.5(a)  
 Rqmt Prov: PERMIT 2605-000  
 Description: Failure to collect the pH sample for Outfall 006, when discharging.

26 Date 01/31/2005 (425259)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

27 Description: Failure to meet the limit for one or more permit parameter  
 Date 02/28/2005 (387533)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

28 Description: Failure to meet the limit for one or more permit parameter  
 Date 03/31/2005 (425260)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

29 Description: Failure to meet the limit for one or more permit parameter  
 Date 04/30/2005 (425261)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

30 Description: Failure to meet the limit for one or more permit parameter  
 Date 05/31/2005 (425262)  
 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

31 Date 06/30/2005 (425263)  
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

32 Date 07/31/2005 (445848)  
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

33 Date 08/31/2005 (445849)  
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

34 Date 09/30/2005 (477804)  
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

35 Date 10/31/2005 (477805)  
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

36 Date 11/30/2005 (477806)  
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

37 Date 12/06/2005 (435708)  
Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT No. 02605 Pages 2-2d  
Description: Failure to maintain compliance with the permitted effluent limits for carbonaceous biochemical oxygen demand (CBOD), total suspended solids (TSS), ammonia-nitrogen (NH3-N), nickel (Ni), silver, phenols, total petroleum hydrocarbons (TPH), total chlorine residual (Cl2 res.), and dissolved oxygen (DO).

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT No. 02605 Page 5, no. 7c  
Description: Failure to provide effluent violation notification letters in accordance with the permit requirements and applicable State regulations.

Self Report? NO Classification Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)  
Rqmt Prov: PERMIT No. 02605 Page 2, No. 4  
Description: Failure to monitor the effluent pH at outfall 001 at the frequency specified in the permit.

Self Report? NO Classification Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT No. 02605 Page 3, No. 1b  
Description: Failure to accurately calculate and report the daily average flows.

Self Report? NO Classification Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
Rqmt Prov: PERMIT No. 02605 Page 18, No. 3  
PERMIT No. 02605 Page 2, No. 1  
Description: Failure to report all of the required values on the Discharge Monitoring Reports (DMRs).

Self Report? NO Classification Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)  
Description: Failure to store biomonitoring samples at 4 degrees C.

38 Date 01/31/2006 (477802)  
Self Report? YES Classification Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

39 Description: TWC Chapter 26 26.121(a)[G]  
 Failure to meet the limit for one or more permit parameter  
 Date 02/28/2006 (477803)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

40 Description: Failure to meet the limit for one or more permit parameter  
 Date 03/31/2006 (504260)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

41 Description: Failure to meet the limit for one or more permit parameter  
 Date 04/30/2006 (504261)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

42 Description: Failure to meet the limit for one or more permit parameter  
 Date 05/31/2006 (504262)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

43 Description: Failure to meet the limit for one or more permit parameter  
 Date 06/30/2006 (504263)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

44 Description: Failure to meet the limit for one or more permit parameter  
 Date 07/31/2006 (526607)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

45 Description: Failure to meet the limit for one or more permit parameter  
 Date 08/31/2006 (445850)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

46 Description: Failure to meet the limit for one or more permit parameter  
 Date 09/30/2006 (550776)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

47 Description: Failure to meet the limit for one or more permit parameter  
 Date 10/31/2006 (550777)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]

48 Description: Failure to meet the limit for one or more permit parameter  
 Date 04/16/2007 (543446)  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)  
 Description: Failure to provide erosion control measures for the storm water outfalls.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
AGAINST  
SOUTHWEST SHIPYARD, L.P.  
RN100248749

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-0794-AIR-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 Southwest Shipyard, L.P. ("Southwest Shipyard") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Litigation Division, and Southwest Shipyard, represented by Ms. Patricia Finn Braddock, of the law firm of Fulbright & Jaworski, LLP, presented this agreement to the Commission.

Southwest Shipyard 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, Southwest Shipyard 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 Southwest Shipyard.

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

**I. FINDINGS OF FACT**

1. Southwest Shipyard owns and operates a maintenance facility where barges are sandblasted, painted, depressurized, degassed and cleaned, and it is located at 18310 Market Street in Channelview, Harris County, Texas ("the Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. During an investigation conducted on February 14 and 22, 2007 and March 19, 2007, a TCEQ Houston Regional Investigator documented that Southwest Shipyard failed to route emissions from the barge cleaning operations to a vapor collection system. Specifically, benzene was emitted from the barge cleaning operation directly to the atmosphere for 12 hours beginning January 20, 2007 and ending January 21, 2007; for 14 hours on February 7, 2007; and for 12 hours on March 13, 2007.
4. During an investigation conducted on February 14 and 22, 2007 and March 19, 2007, a TCEQ Houston Regional Investigator documented that Southwest Shipyard failed to operate according to representations made in the permit application for New Source Review Permit No. 9442. Specifically, 976 gallons of benzene were removed from the Kirby Barge No. 25002, to an on-site tank truck, then from the tank truck to an on-site tank (Tank No. A 402) on February 6, 2007, instead of transporting the recovered product and associated vapors via pipeline to existing onsite above ground storage tanks, drums, or tanker trucks.
5. During an investigation conducted on February 14 and 22, 2007 and March 19, 2007, a TCEQ Houston Regional Investigator documented that Southwest Shipyard failed to maintain the maximum loading rate limit of 300 gallons per hour ("gph"). Specifically, Southwest Shipyard exceeded 300 gallons per hour on February 6, 2007, when loading benzene from Kirby Barge No. 25002 at a rate of 325 gph, and from truck to Tank No. 402 at a rate of 1,952 gph resulting in high level benzene releases to the atmosphere.
6. During an investigation conducted on April 24 and 25, 2007, a TCEQ Houston Regional Investigator documented that Southwest Shipyard failed to design and operate degassing and cleaning equipment to prevent volatile organic compounds ("VOC") leaks. Specifically, the tanks on the Kirby Barge No. 24305 failed to maintain a negative pressure [pressure gauge read 0 pounds per square inch gauge ("psig"). Also, benzene emissions were seen with the use of the GasFindIR camera, and a Toxic Vapor Analyser ("TVQ") reading of 300 parts per million ("ppm") was recorded outside the cargo tank hatch during cleaning and degassing operations.
7. During an investigation conducted on April 24 and 25, 2007, a TCEQ Houston Regional Investigator documented that Southwest Shipyard failed to operate according to representations made in the 2000 permit application for New Source Review Permit No. 9442. Specifically, Southwest Shipyard represented that the degassing of the barges was to be conducted prior to initiating barge wash operations; however, it was observed during the cleaning and degassing of Kirby Barge No. 24305 on April 24, 2007, that the wash water (on vapor control) was conducted prior to degassing.
8. During an investigation conducted on April 24 and 25, 2007, a TCEQ Houston Regional Investigator documented that Southwest Shipyard failed to route emissions from the barge

cleaning operations to a vapor collection system. Specifically, benzene emissions (13 ppm) were emitted on April 24, 2007, from barge (Kirby Barge No. 24305) cleaning operations directly to the atmosphere.

9. During an investigation conducted on May 4, 2007, a TCEQ Houston Regional Investigator documented that Southwest Shipyard failed to operate according to representations made in the 2000 permit application for New Source Review Permit No. 9442. Specifically, Southwest Shipyard represented that the degassing of the barges was to be conducted prior to initiating barge wash operations; however, it was observed during the cleaning and degassing of Kirby Barge Nos. 10313 and 10423 on April 30, 2007, that the wash water (on vapor control) was conducted prior to degassing.
10. During an investigation conducted on May 4, 2007, a TCEQ Houston Regional Investigator documented that Southwest Shipyard failed to route emissions from barge cleaning operations to a vapor collection system. Specifically, benzene emissions were emitted to the atmosphere beginning at 2:00 a.m. (Kirby Barge No. 10313) and 8:45 p.m. (Kirby Barge No. 10423) on May 1, 2007, from barge cleaning operations directly to the atmosphere.
11. Southwest Shipyard received notice of the violations on or about May 12, July 4 and September 12, 2007.

## II. CONCLUSIONS OF LAW

1. Southwest Shipyard is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Southwest Shipyard failed to route emissions from the barge cleaning operations to a vapor collection system. Specifically, benzene was emitted from the barge cleaning operation directly to the atmosphere for 12 hours beginning January 20, 2007 and ending January 21, 2007; for 14 hours on February 7, 2007; and for 12 hours on March 13, 2007, in violation of 30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 8.
3. As evidenced by Finding of Fact No. 4, Southwest Shipyard failed to operate according to representations made in the permit application for New Source Review Permit No. 9442. Specifically, 976 gallons of benzene were removed from the Kirby Barge No. 25002, to an on-site tank truck, then from the tank truck to an on-site tank (Tank No. A 402) on February 6, 2007, instead of transporting the recovered product and associated vapors via pipeline to

existing onsite above ground storage tanks, drums, or tanker trucks, in violation of 30 TEX. ADMIN. CODE § 116.116(a)(1), TEX. HEALTH & SAFETY CODE § 382.085(b).

4. As evidenced by Finding of Fact No. 5, Southwest Shipyard failed to maintain the maximum loading rate limit of 300 gph. Specifically, Southwest Shipyard exceeded 300 gallons per hour on February 6, 2007, when loading benzene from Kirby Barge No. 25002 at a rate of 325 gph, and from truck to Tank No. 402 at a rate of 1,952 gph resulting in high level benzene releases to the atmosphere, in violation of 30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 15(H).
5. As evidenced by Finding of Fact No. 6, Southwest Shipyard failed to design and operate degassing and cleaning equipment to prevent VOC leaks. Specifically, the tanks on the Kirby Barge No. 24305 failed to maintain a negative pressure (pressure gauge read 0 psig). Also, benzene emissions were seen with the use of the GasFindIR camera, and a TVQ reading of 300 ppm was recorded outside the cargo tank hatch during the cleaning and degassing operations, in violation of 30 TEX. ADMIN. CODE § 115.542(b)(2) and (3); TEX. HEALTH & SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 8.
6. As evidenced by Finding of Fact No. 7, Southwest Shipyard failed to operate according to representations made in the 2000 permit application for New Source Review Permit No. 9442. Specifically, Southwest Shipyard represented that the degassing of the barges was to be conducted prior to initiating barge wash operations; however, it was observed during the cleaning and degassing of Kirby Barge No. 24305 on April 24, 2007, that the wash water (on vapor control) was conducted prior to degassing, in violation of 30 TEX. ADMIN. CODE § 116.116(a)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
7. As evidenced by Finding of Fact No. 8, Southwest Shipyard failed to route emissions from barge cleaning operations to a vapor collection system. Specifically, benzene emissions (13 ppm) were emitted on April 24, 2007, from barge (Kirby Barge No. 24305) cleaning operations directly to the atmosphere, in violation of 30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 10.A.
8. As evidenced by Finding of Fact No. 9, Southwest Shipyard failed to operate according to representations made in the 2000 permit application for New Source Review Permit No. 9442. Specifically, Southwest Shipyard represented that the degassing of the barges was to be conducted prior to initiating barge wash operation; however, it was observed during the cleaning and degassing of Kirby Barge Nos. 10313 and 10423 on April 30, 2007, that the wash water (on vapor control) was conducted prior to degassing, in violation of 30 TEX.

ADMIN. CODE § 116.116(a)(1); TEX. HEALTH & SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 10.A.

9. As evidenced by Finding of Fact No. 10, Southwest Shipyard failed to route emissions from barge cleaning operations to a vapor collection system. Specifically, benzene emissions were emitted to the atmosphere beginning at 2:00 a.m. (Kirby Barge No. 10313) and 8:45 p.m. (Kirby Barge No. 10423) on May 1, 2007, from barge cleaning operations directly to the atmosphere, in violation of 30 TEX. ADMIN. CODE § 116.115(c); TEX. HEALTH & SAFETY CODE § 382.085(b); and New Source Review Permit No. 9442, Special Condition No. 8.
10. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Southwest Shipyard 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.
11. An administrative penalty in the amount of seventy-seven thousand two hundred seventy-six dollars (\$77,276.00) 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. Southwest Shipyard has paid thirty-eight thousand six hundred thirty-eight dollars (\$38,638.00) of the administrative penalty. Thirty-eight thousand six hundred thirty-eight dollars (\$38,638.00) shall be conditionally offset by Southwest Shipyard's completion of a Supplemental Environmental Project as defined in Attachment A and incorporated herein by reference. Southwest Shipyard'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.

### III. ORDERING PROVISIONS

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

1. Southwest Shipyard is assessed an administrative penalty in the amount of seventy-seven thousand two hundred seventy-six dollars (\$77,276.00) as set forth in Section II, Paragraph 11 above for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Southwest Shipyard'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: Southwest Shipyard, L.P., Docket No. 2007-0794-AIR-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. Southwest Shipyard shall implement and complete a Supplemental Environmental Project in accordance with TEX. WATER CODE § 7.067. Thirty-eight thousand six hundred thirty-eight dollars (\$38,638.00) of the assessed administrative penalty shall be conditionally offset by Southwest Shipyard's completion of a Supplemental Environmental Project defined in "Attachment A." Southwest Shipyard's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all portions of the Supplemental Environmental Project agreement.
3. It is further ordered that Southwest Shipyard shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Southwest Shipyard shall begin transporting recovered products and associated vapors via pipeline, in accordance with the representations made in the permit application or as described in any approved permit amendments.
  - b. Within 30 days after the effective date of this Agreed Order, Southwest Shipyard shall:
    - I. Provide additional training and oversight of employees to ensure that emissions are controlled through the use of a vapor collection system during degassing and cleaning operations.
    - ii. Develop and begin implementing procedures to ensure that tank truck loading and offloading do not exceed the 300 gph limit stipulated in the existing New Source Review Permit No. 9442 or the limits specified in any approved amendment to the existing New Source Review Permit No. 9442.
    - iii. Provide additional training and oversight to employees to ensure that emissions are controlled during the degassing procedures prior to initiating barge wash operations.
  - c. Within 45 days after the effective date of this Agreed Order, Southwest Shipyard shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or

other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Ms. Linda Vasse  
Air Quality Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon Southwest Shipyard. Southwest Shipyard is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If Southwest Shipyard 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, Southwest Shipyard's failure to comply is not a violation of this Agreed Order. Southwest Shipyard has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Southwest Shipyard shall notify the Executive Director within seven days after Southwest Shipyard 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

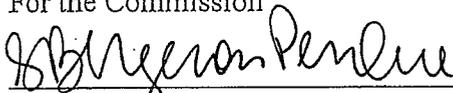
and substantiated showing of good cause. All requests for extensions by Southwest Shipyard shall be made in writing to the Executive Director. Extensions are not effective until Southwest Shipyard receives written approval from the Executive Director. The determination of what constitutes good cause 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 Southwest Shipyard if the Executive Director determines that Southwest Shipyard 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 Southwest Shipyard 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

4/14/2008

Date

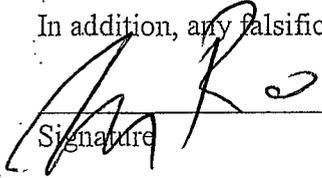
I, the undersigned, have read and understand the attached Agreed Order in the matter of Southwest Shipyard, L.P. I represent that I am authorized to agree to the attached Agreed Order on behalf of Southwest Shipyard, L.P., and do agree to the specified terms and conditions. I further acknowledge that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

I understand that by entering into this Agreed Order, Southwest Shipyard, L.P. 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 Southwest Shipyard's failure to comply with the Ordering Provisions, if any, in this order and/or its failure to timely pay the penalty amount, may result in:

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

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

  
Signature

SANJAY RAO

Name (printed or typed)  
Authorized Representative of  
Southwest Shipyard, L.P.

11/21/07  
Date

PRESIDENT

Title

Attachment A  
PROJECT Docket Number: 2007-0794-AIR-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Southwest Shipyard, L.P.

**Penalty Amount:** Seventy-seven thousand two hundred seventy-six dollars  
(\$77,276)

**SEP Amount:** Thirty-eight thousand six hundred thirty-eight dollars  
(\$38,638)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Harris County Fourier Transform Infra Red (FTIR) Air  
Monitoring

**Location of SEP:** Harris 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 the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, Harris County shall perform Fourier Transform Infra Red (FTIR) air monitoring, equipment operation and equipment maintenance. The FTIR will analyze volatile organic compounds in ambient air. SEP monies will fund the lease/contract for services of the FTIR and related equipment, as well as the operation and maintenance of the FTIR site. SEP monies will also be used to pay for equipment, software, and programming associated with Internet connectivity and automated data ingestion.

The Respondent certifies that it has 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 providing measurements of concentrations of certain air pollutants. The information obtained from this monitoring site will provide the community with more knowledge of the types and quantities of pollutants present in the area. Data obtained from the monitoring site, and made available to the public, may be used by the TCEQ, EPA, scientists, local government and industry to reduce emissions, as appropriate. Because air quality is an important priority in the Harris County area, this Project is focused on providing air quality data that may be used by the TCEQ, local programs, and other stakeholders to investigate and improve knowledge of any identified air quality concerns.

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:

Mr. Chris Barry  
Harris County Public Health and Environmental Services  
Pollution Control Division  
107 North Munger (hand delivery)  
P.O. Box 6031 (U. S. Mail only)  
Pasadena, Texas 77506

**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:

Litigation Division  
Attention: SEP Coordinator, MC 175  
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.

In the event of incomplete performance, the Respondent shall submit a check for any amount due with a notation that the payment is for a “SEP Refund”, and the docket number of the case. The Respondent shall make the check out to “Texas Commission on Environmental Quality” and mail it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.