

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1959-WQ-E TCEQ ID: RN100604677 CASE NO.: 31643
RESPONDENT NAME: U. S. OIL RECOVERY, L.P.

| | | |
|---|---|---|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input checked="" type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: 400 N. Richey Street, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Centralized waste treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is a record of an additional pending enforcement action regarding this facility, TCEQ Docket No.: 2007-0857-IHW-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 24, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Merrilee Gerberding-Hupp, Water Enforcement Section, MC 169, (512) 239-4490 TCEQ Regional Contact: Mr. Stephen Smith, Houston Regional Office, MC R-12, (713) 767-3581 Respondent: Mr. Klaus Genssler, President, U. S. Oil Recovery, L. P., 400 Richey Street, Pasadena, Texas 77506 Respondent's Attorneys: Mr. Lawrence Rothenberg, Attorney at Law, The Bunker Hill Building, 9525 Katy Freeway, Suite 300, Houston, Texas 77024 Mr. John B. Turney, Hilgers Bell & Richards, L.L.P., 816 Congress, Suite 1200, Austin, Texas 78701</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|--|--|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: May 31, 2006 and August 17, 2007</p> <p>Date of NOEs Relating to this Case: July 18, 2006 and September 28, 2007</p> <p>Background Facts:</p> <p>An EDRP was filed on January 8, 2007. The case was referred to SOAH on June 1, 2007. A preliminary hearing was held on July 11, 2007. A second investigation took place on August 17, 2007, which revealed additional alleged violations at the facility. A signed Agreed Order was received on January 29, 2008.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>WQ:</p> <p>1. Failed to prevent the unauthorized discharge of contaminated storm water into and adjacent to Vince Bayou. Specifically, contaminated storm water with high levels of oil and grease and total organic carbon was flowing from an on-site storm drain within the waste treatment and processing area, as documented on May 31, 2006 [TEX. WATER CODE § 26.121].</p> <p>2. Failed to take measures to prevent the unauthorized discharge of wastewater. Specifically, on August 16, 2007, process wastewater overflowed a containment pit and discharged to Vince Bayou [TEX. WATER CODE § 26.121(a)].</p> | <p>Total Assessed: \$26,650</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$2,450/\$24,200</p> <p>The Respondent has paid \$2,450 of the administrative penalty. The remaining amount of \$24,200 of the administrative penalty shall be payable in eleven monthly payments of \$2,200 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 30 days, submit an administratively complete application for an individual, Texas Pollutant Discharge Elimination System Permit for the discharge of storm water associated with industrial activity.</p> <p>2. Respond completely and adequately to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.</p> <p>3. Within 45 days, submit a report describing the details of the discharges and the adequacy of the response action taken for the discharges that occurred on May 31, 2006 and August 16, 2007. The assessment report shall contain an evaluation of the extent of soil contamination within the discharge path of the contaminated storm water overflow immediately east of the sump and south of the entrance driveway on North Richey Road, and within the discharge path of the oily waste overflow from the containment pits to Vince Bayou to determine whether method quantitation limits ("MQL") are at or below the applicable action levels for all target chemicals of concern ("COC").</p> <p>4. Respond completely and adequately, as determined by the Remediation Division, to all requests for information concerning the requirements of Ordering Provision No. 3, within 10 days after the date of such requests or by any other deadline specified in writing.</p> <p>5. Within 180 days:</p> <p>a. Build a 9-12 inch concrete wall around the perimeter of the Facility to contain storm water in the parking lot;</p> <p>b. Install gutters for the roof area towards the parking lot to minimize storm water in the unloading area; and</p> <p>c. Install portico style roofs over the truck unloading areas.</p> |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|-----------------------|------------------------|--|
| | | <p>6. Within 195 days, submit written certification that the improvements described in Ordering Provision No. 5 have been completed.</p> <p>7. Within 300 days, submit written certification that either an individual TPDES permit has been obtained or that operation has ceased until such time that appropriate authorization is obtained.</p> <p>8. The certification required by Ordering Provision Nos. 6 and 7 shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p> |



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 02-Oct-2006 | Screening | 07-Nov-2006 | EPA Due | |
| | PCW | 15-Jan-2008 | | | | |

| | |
|--|-------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | U.S. Oil Recovery, L.P. |
| Reg. Ent. Ref. No. | RN100604677 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor Source |

| | | | |
|---------------------------------|----------------|-------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 31643 | No. of Violations | 1 |
| Docket No. | 2006-1959-WQ-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Merrilee Hupp |
| Multi-Media | | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 30% Enhancement Subtotals 2, 3, & 7

Notes

Culpability Yes 25% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

| | | |
|---------------|------------|------------------------------|
| | Before NOV | NOV to EDRP/Settlement Offer |
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with a small x) |

Notes

Economic Benefit 0% Enhancement* Subtotal 6

| | | |
|----------------------------|----------|-----------------------------------|
| Total EB Amounts | \$7,931 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$57,000 | |

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 0% Reduction Adjustment

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

Notes

PAYABLE PENALTY

PCW #1

| | | |
|--|----------------------------------|---|
| Screening Date 07-Nov-2006 | Docket No. 2006-1959-WQ-E | PCW |
| Respondent U.S. Oil Recovery, L.P. | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 31643 | | <i>PCW Revision May 19, 2005</i> |
| Reg. Ent. Reference No. RN100604677 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Merrilee Hupp | | |

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

| Component | Number of... | <i>Enter Number Here</i> | Adjust. |
|-------------------------------|--|--------------------------|----------------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i> | 4 | 20% |
| | Other written NOVs | 5 | 10% |
| Orders | Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i> | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i> | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government <i>(number of counts)</i> | 0 | 0% |
| Emissions | Chronic excessive emissions events <i>(number of events)</i> | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were)</i> | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i> | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 30%

>> **Repeat Violator (Subtotal 3)**

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes The respondent has four NOVs for same or similar violations and five NOVs for other violations at this facility during the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

| | | |
|--|--|------------|
| Screening Date 07-Nov-2006 | Docket No. 2006-1959-WQ-E | PCW |
| Respondent U.S. Oil Recovery, L.P. | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 31643 | <i>PCW Revision May 19, 2005</i> | |
| Reg. Ent. Reference No. RN100604677 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Merrilee Hupp | | |
| Violation Number 1 | | |
| Primary Rule Cite(s) | Tex. Water Code § 26.121(a)(1) | |
| Secondary Rule Cite(s) | | |
| Violation Description | Failure to prevent the unauthorized discharge of contaminated storm water into and adjacent to Vince Bayou. Specifically, contaminated storm water with high levels of oil and grease and total organic carbon was flowing from an on-site storm drain within the waste treatment and processing area, as documented during the investigation on May 31, 2006. | |

Base Penalty

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

| | | | | | |
|----|----------------|----------------------|-------------------------------------|----------------------|--|
| | | Harm | | | |
| | Release | Major | Moderate | Minor | |
| OR | Actual | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | Percent <input style="width: 50px;" type="text" value="25%"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> **Programmatic Matrix**

| | | | | | |
|--|----------------------|----------------------|----------------------|----------------------|--|
| | Falsification | Major | Moderate | Minor | Percent <input style="width: 50px;" type="text"/> |
| | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

Matrix Notes The unauthorized discharge of contaminated storm water resulted in the exposure of a significant amount of contaminants which did not have exceeded levels protective of human health and the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Six monthly events are recommended from the investigation date of May 31, 2006 to the screening date of November 7, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent U.S. Oil Recovery, L.P.
 Case ID No. 31643
 Reg. Ent. Reference No. RN100604677
 Media [Statute] Water Quality
 Violation No. 1

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost <small>No commas or \$</small> | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|---|---------------|-------------|-----|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | \$50,000 | 21-Dec-2005 | 01-Aug-2007 | 1.6 | \$268 | \$5,370 | \$5,638 |
| 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 | \$5,000 | 31-May-2006 | 01-Aug-2007 | 1.2 | \$292 | n/a | \$292 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs: Estimated costs of providing adequate containment and treatment of contaminated storm water necessary to prevent the discharge of this wastewater is \$50,000 and for preparing an Affected Property Assessment Report is \$5,000. Date required is the investigation date. Final date is the projected 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] | \$2,000 | 31-May-2006 | 01-Jun-2006 | 0.0 | \$0 | \$2,000 | \$2,000 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs: Estimated costs of appropriate disposal of contaminated storm water that was discharged without authorization. Date required is date of discharge. Final date is date following date of documented discharge event.

Approx. Cost of Compliance \$57,000

TOTAL \$7,931

Compliance History

Customer/Respondent/Owner-Operator: CN602842734 U.S. Oil Recovery, L.P.

Classification: AVERAGE Rating: 2.91

Regulated Entity: RN100604677 US OIL RECOVERY

Classification: AVERAGE Site Rating: 2.91

| ID Number(s): | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 52123 |
|---------------|---|----------------------------------|--------------|
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXR000051540 |
| | MUNICIPAL SOLID WASTE PROCESSING | PERMIT | 2336 |
| | MUNICIPAL SOLID WASTE PROCESSING | REGISTRATION | 43020 |
| | USED OIL | REGISTRATION | A85794 |
| | USED OIL | EPA ID | TXR000051540 |
| | INDUSTRIAL AND HAZARDOUS WASTE STORAGE | PERMIT | WQG600000 |
| | INDUSTRIAL AND HAZARDOUS WASTE PROCESSING | PERMIT | 52123 |
| | MUNICIPAL SOLID WASTE DISPOSAL | PERMIT | 2336 |
| | MUNICIPAL SOLID WASTE DISPOSAL | PERMIT | 2331 |

Location: 400 N RICHEY ST, PASADENA, TX, 77506

Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: November 01, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 01, 2001 to November 01, 2006

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

Name: Catherine Albrecht Phone: (713)767-3672

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? U.S. Oil Recovery, L.P.
4. If Yes, who was/were the prior owner(s)? U.S. Oil Recovery, LLC
5. When did the change(s) in ownership occur? 11/03/2004

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 06/02/2006 (465213)
- 2 10/07/2005 (432985)
- 3 12/05/2005 (436602)
- 4 02/24/2004 (256005)
- 5 06/02/2006 (467557)
- 6 10/10/2006 (511924)
- 7 03/14/2006 (453629)
- 8 02/06/2006 (451977)
- 9 05/25/2006 (465875)
- 10 07/13/2006 (484153)
- 11 10/05/2004 (333592)

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

- Date: 09/29/2006 (485164)
- Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 335, SubChapter A 335.15(2)
- Description: Failure to submit a complete May 2006 Monthly Receipt Summary Report by July 25, 2006.

CH #1

Date: 09/19/2006 (393672)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter E 330.66(d)(2)
Description: Failure to cover open vessels that manage grease trap waste and grit trap waste.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
Description: Failure to prevent an unauthorized discharge resulting in soil contamination.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.4(a)
Description: Failure to have a permit to process lint trap waste, or authorization to store untreated grease and grit trap waste.

Date: 06/17/2004 (333592)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.11(2)
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.42(a)
Description: Failure to obtain a Used Oil Transporter registration.

Date: 12/05/2005 (436602)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
Description: Unauthorized discharges resulted in site contamination requiring remediation.

Date: 12/24/2003 (256005)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.14
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.72(a)
Description: Failure to determine that used oil that is to be burned for energy recovery meets the fuel specifications of 40 CFR 279.11.

Date: 11/17/2005 (435845)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.12(b)
Description: US Oil Recovery representative completely failed to submit the required reports contained in 40 CFR §§403.12(b),(d),and (c) to the designated control authority (CA).

Date: 02/24/2004 (256005)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)[G]
Description: Failure to maintain an up-to-date Notice of Registration.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.14
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.74(b)(4)
Description: Failure to indicate a cross reference on shipment records to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under 279.72(a).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.12
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.52(b)(2)(vi)
Description: Failure to develop an adequate contingency plan. It lacked an evacuation plan.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.12(3)[G]
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.55[G]
Description: Failure to have a written analysis plan.

Date: 02/06/2006 (451977)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
Description: Failure to prevent an unauthorized discharge resulting in soil contamination.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.4(a)
Description: Failure to have a permit to process lint trap waste, or authorization to store untreated grease and grit trap waste.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter P 330.603(a)(1)(C)
Description: Failure to accurately report the amount of MSW liquid waste received.

Date: 10/05/2005 (432985)
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121(a)(1)
Description: Failure to prevent the unauthorized discharge of wastewater.
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.039
Description: Failure to submit a noncompliance notification within twenty four hours by phone or fax for the unauthorized discharge of wastewater.

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

| | | | | | | |
|-------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 1-Oct-2007 | Screening | 15-Oct-2007 | EPA Due | |
| | PCW | 15-Jan-2008 | | | | |

| | |
|--|-------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | U.S. Oil Recovery, L.P. |
| Reg. Ent. Ref. No. | RN100604677 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor |

| | | | | |
|-------------------------|----------------|-------------------|--------------------|----------|
| CASE INFORMATION | | | | |
| Enf./Case ID No. | 31643 | No. of Violations | 1 | |
| Docket No. | 2006-1959-WQ-E | Order Type | 1660 | |
| Media Program(s) | Water Quality | Enf. Coordinator | Merrilee Hupp | |
| Multi-Media | | EC's Team | Enforcement Team 1 | |
| Admin. Penalty \$ | Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 36% Enhancement Subtotals 2, 3, & 7 \$900

Notes: The Respondent has four NOVs for same or similar violations and eight NOVs for other violations.

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 EDRP/ Settlement Offer |
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

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

Total EB Amounts \$12 0% Enhancement* Subtotal 6 \$0
 Approx. Cost of Compliance \$30,000 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$3,400

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$3,400

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$3,400

DEFERRAL 0% Reduction Adjustment \$0

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

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY \$3,400

PCW #2

Screening Date 15-Oct-2007

Docket No. 2006-1959-WQ-E

PCW

Respondent U.S. Oil Recovery, L.P.

Policy Revision 2 (September 2002)

Case ID No. 31643

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100604677

Media [Statute] Water-Quality

Enf. Coordinator Merrilee Hupp

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) | 4 | 20% |
| | Other written NOVs | 8 | 16% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements 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) 36%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has four NOVs for same or similar violations and eight NOVs for other violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 36%

Screening Date 15-Oct-2007 **Docket No.** 2006-1959-WQ-E **PCW**
Respondent U.S. Oil Recovery, L.P. *Policy Revision 2 (September 2002)*
Case ID No. 31643 *PCW Revision November 6, 2007*
Reg. Ent. Reference No. RN100604677
Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp
Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | <input type="text"/> |
| monthly | <input checked="" type="text" value="x"/> |
| quarterly | <input type="text"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input type="text"/> |

Violation Base Penalty

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent U.S. Oil Recovery, L.P.
Case ID No. 31643
Reg. Ent. Reference No. RN100604677
Media Water Quality
Violation No. 1

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|-------------|-----|-----|------|------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | \$30,000 | 16-Aug-2007 | 18-Aug-2007 | 0.0 | \$1 | \$11 | \$12 |
| 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

Estimated cost for the removal of contaminated soil. Date required is date of the wastewater overflow. Final date is the date by which the contaminated soil had been removed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$30,000

TOTAL

\$12

Compliance History

Customer/Respondent/Owner-Operator: CN602842734 U.S. Oil Recovery, L.P. Classification: AVERAGE Rating: 3.00
 Regulated Entity: RN100604677 US OIL RECOVERY Classification: AVERAGE Site Rating: 3.00

| ID-Number(s): | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 52123 |
|---------------|---|----------------------------------|--------------|
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXR000051540 |
| | MUNICIPAL SOLID WASTE PROCESSING | PERMIT | 2336 |
| | MUNICIPAL SOLID WASTE PROCESSING | REGISTRATION | 43020 |
| | USED OIL | REGISTRATION | A85794 |
| | USED OIL | EPA ID | TXR000051540 |
| | INDUSTRIAL AND HAZARDOUS WASTE STORAGE | PERMIT | WQG600000 |
| | INDUSTRIAL AND HAZARDOUS WASTE PROCESSING | PERMIT | 52123 |
| | MUNICIPAL SOLID WASTE DISPOSAL | PERMIT | 2336 |
| | MUNICIPAL SOLID WASTE DISPOSAL | PERMIT | 2331 |

Location: 400 North Richey Street, Pasadena, Harris County Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 15, 2007

Agency Decision Requiring Compliance History: Enforcement

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

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Catherine Albrecht Phone: (713)767-3672

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? U. S. Oil Recovery, L.L.C.
4. If Yes, who was/were the prior owner(s)? U.S. Oil Recovery, L.P.
5. When did the change(s) in ownership occur? North Richey Street Site
U.S. Oil Recovery L.L.P.
01/15/2004
02/22/2006

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
Start Date
09/20/2007
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 02/24/2004 (256005)
- 2 10/05/2004 (333592)
- 3 10/07/2005 (432985)
- 4 12/05/2005 (436602)
- 5 02/06/2006 (451977)
- 6 03/14/2006 (453629)
- 7 05/25/2006 (465875)
- 8 06/02/2006 (465213)
- 9 06/02/2006 (467557)
- 10 07/13/2006 (484153)
- 11 10/10/2006 (511924)
- 12 11/27/2006 (519134)
- 13 12/14/2006 (532660)
- 14 12/22/2006 (533999)
- 15 01/31/2007 (537174)
- 16 03/06/2007 (539481)
- 17 09/28/2007 (574114)
- 18 10/05/2007 (573276)

CH #2

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

Date: 12/24/2003 (256005)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.14
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.72(a)

Description: Failure to determine that used oil that is to be burned for energy recovery meets the fuel specifications of 40 CFR 279.11.

Date: 02/24/2004 (256005)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
Description: Failure to maintain an up-to-date Notice of Registration.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.14
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.74(b)(4)

Description: Failure to indicate a cross reference on shipment records to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under 279.72(a).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.12
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.52(b)(2)(vi)
Description: Failure to develop an adequate contingency plan. It lacked an evacuation plan.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.12(3)
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.55
Description: Failure to have a written analysis plan.

Date: 06/17/2004 (333592)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 324, SubChapter A 324.1
30 TAC Chapter 324, SubChapter A 324.11(2)
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.42(a)
Description: Failure to obtain a Used Oil Transporter registration.

Date: 10/05/2005 (432985)
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121(a)(1)
Description: Failure to prevent the unauthorized discharge of wastewater.
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.039
Description: Failure to submit a noncompliance notification within twenty four hours by phone or fax for the unauthorized discharge of wastewater.

Date: 11/17/2005 (435845)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.12(b)
Description: US Oil Recovery representative completely failed to submit the required reports contained in 40 CFR §§403.12(b),(d), and (c) to the designated control authority (CA).

Date: 12/05/2005 (436602)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
Description: Unauthorized discharges resulted in site contamination requiring remediation.

Date: 02/06/2006 (451977)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
Description: Failure to prevent an unauthorized discharge resulting in soil contamination.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.4(a)
Description: Failure to have a permit to process lint trap waste, or authorization to store untreated grease and grit trap waste.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter P 330.603(a)(1)(C)
Description: Failure to accurately report the amount of MSW liquid waste received.

Date: 09/19/2006 (393672)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter E 330.66(d)(2)
Description: Failure to cover open vessels that manage grease trap waste and grit trap waste.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4(1)
Description: Failure to prevent an unauthorized discharge resulting in soil contamination.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.4(a)
Description: Failure to have a permit to process lint trap waste, or authorization to store untreated grease and grit trap waste.

Date: 09/29/2006 (485164)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.15(2)
Description: Failure to submit a complete May 2006 Monthly Receipt Summary Report by July 25, 2006.

Date: 11/27/2006 (519134)
Self Report? NO Classification: Moderate
Citation: ~~40 CFR Chapter 403, SubChapter N, PT 403.403-12(b)~~
Description: Failure to submit a complete baseline monitoring report.

Date: 05/29/2007 (556940)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Based on this investigation, the facility failed to obtain an air permit to operate the aeration basin.

Date: 07/17/2007 (562390)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 205, SubChapter A 205.4(h)
30 TAC Chapter 335, SubChapter A 335.2(n)
Rqmt Prov: PERMIT Provision II.C.4
PERMIT Provision II.D.2.
Description: Failure to notify the Commission of changes regarding POTW within time frames specified in permit.

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
U.S. OIL RECOVERY, L.P.;
RN100604677

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-1959-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding U.S. Oil Recovery, L.P. ("USOR") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and USOR, represented by Mr. John B. Turney, of the law firm of Hilgers Bell and Richards, LLP, appear before the Commission and together stipulate that:

1. USOR owns and operates a centralized waste treatment facility located at 400 N. Richey Street, Pasadena, Harris County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the TCEQ rules.
3. The Commission and USOR agree that the Commission has jurisdiction to enter this Agreed Order, and that USOR is subject to the Commission's jurisdiction.
4. USOR received notice of the violations alleged in Section II ("Allegations") on or about July 18, 2006 and October 2, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by USOR of any violations alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of twenty-six thousand six hundred fifty dollars (\$26,650.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). USOR has paid two thousand four hundred fifty dollars (\$2,450.00) of the

administrative penalty. The remaining amount of twenty-four thousand two hundred dollars (\$24,200.00) of the administrative penalty shall be payable in eleven monthly payments of two thousand two hundred dollars (\$2,200.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If USOR fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of USOR to meet the payment schedule of this Agreed Order constitutes the failure by USOR to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and USOR have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that USOR has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

USOR is alleged to have violated:

1. TEX. WATER CODE § 26.121, by failing to prevent the unauthorized discharge of contaminated storm water into and adjacent to Vince Bayou. Specifically, contaminated storm water with high levels of oil and grease and total organic carbon was flowing from an on-site storm drain within the waste treatment and processing area, as documented by a TCEQ Houston Regional Office investigator during an investigation conducted on May 31, 2006.

2. TEX. WATER CODE § 26.121(a), by failing to take measures to prevent the unauthorized discharge of wastewater. Specifically, on August 16, 2007 process wastewater overflowed a containment pit and discharged to Vince Bayou, as documented by a TCEQ Houston Regional Office investigator during an investigation conducted on August 17, 2007.

III. DENIALS

USOR generally denies the allegation in Section II (“Allegations”).

IV. ORDER

1. It is, therefore, ordered by the TCEQ that USOR pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and USOR’s compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: U.S. Oil Recovery, L.P., Docket No. 2006-1959-WQ-E”:

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. USOR shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, USOR shall Submit an administratively complete application for an individual, Texas Pollutant Discharge Elimination System Permit for the discharge of storm water associated with industrial activity in accordance with applicable sections of 30 TEX. ADMIN. CODE ch. 305 (relating to Consolidated Permits) to:

Water Quality Applications Team
Permits Administrative Review Section
Registration, Review and Reporting Division, MC 161
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. USOR shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.
- c. Within 45 days after the effective date of this Agreed Order, USOR shall submit a report describing the details of the discharges and the adequacy of the response action taken for the discharges that occurred on May 31, 2006 and August 16, 2007. The assessment report shall contain an evaluation of the extent of soil contamination within the discharge path of the contaminated storm water overflow immediately east of the sump and south of the entrance driveway on North Richey Road, and within the discharge path of the oily waste overflow from the containment pits to Vince Bayou to determine whether method quantitation limits ("MQL") are at or below the applicable action levels for all target chemicals of concern ("COC").

The report shall be submitted to:

Remediation Division, MC 137
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Mr. Stephen Smith
Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

- d. USOR shall respond completely and adequately, as determined by the Remediation Division, to all requests for information concerning the requirements of Ordering Provision No. 2.c. within 10 days after the date of such requests or by any other deadline specified in writing. If the Executive Director determines that further response actions are necessary, USOR shall comply with all corrective actions required by the Executive Director to address the discharges described in Ordering Provision No. 2.c., including, but not limited to all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350.

- e. With 180 days after the effective date of this Agreed Order, USOR shall:
- i. Build a 9-12 inch concrete wall around the perimeter of the Facility to contain storm water in the parking lot.
 - ii. Install gutters for the roof area towards the parking lot to minimize storm water in the unloading areas.
 - iii. Install portico style roofs over the truck unloading areas.
- f. Within 195 days after the effective date of this Agreed Order, USOR shall submit written certification that the improvements described in Ordering Provision No. 2.e. have been completed, as described in Ordering Provision No. 2.h. below.
- g. Within 300 days after the effective date of this Agreed Order, USOR shall submit written certification that either an individual TPDES permit has been obtained or that operation has ceased until such time that appropriate authorization is obtained, as described in Ordering Provision No. 2.h. below.
- h. The certification required by Ordering Provision Nos. 2.f. and 2.g. shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Mr. Stephen Smith
Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon USOR. USOR is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If USOR 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, USOR's failure to comply is not a violation of this Agreed Order. USOR shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. USOR shall notify the Executive Director within seven days after USOR becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by USOR shall be made in writing to the Executive Director. Extensions are not effective until USOR receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against USOR in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be

transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to USOR, or three days after the date on which the Commission mails notice of the Order to USOR, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Brynn Penlee
For the Executive Director.

2/27/08
Date

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

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

- A negative impact on USOR's compliance history;
- Greater scrutiny of any permit applications submitted by USOR;
- 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 USOR;
- Automatic referral to the Attorney General's Office of any future enforcement actions against USOR; and
- TCEQ seeking other relief as authorized by law.

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

Klaus Genssler
Signature

1/28/08
Date

Klaus Genssler, President
Name (Printed or typed)
Authorized representative of
U.S. Oil Recovery, L.P.

President
Title