

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-1378-PST-E TCEQ ID NOS.: 55512 AND RN102228111 CASE NO.: 26359

RESPONDENT NAME: RON EDWARDS DBA TAWAKONI STOP II

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" 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>SITE WHERE VIOLATION(S) OCCURRED: 2450 Farm-to-Market Road 47, Point, Rains County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline.</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 1, 2006. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Rebecca Combs, Litigation Division, MC 175, (512) 239-6939 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Mike Meyer, Waste Enforcement Division, MC 128, (512) 239-4492 TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Mr. Ron Edwards, Owner, Tawakoni Stop II, 2450 FM 47, Point, Texas 75472 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: December 31, 2004 and July 1, 2005</p> <p>Date of NOV(s)/NOE(s) Relating to this Case: February 23, 2005 (NOV), July 14, 2005 (NOE)</p> <p>Background Facts: An EDPRP was not filed because the Respondent agreed to sign an Agreed Order.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <p>Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by the operation of the petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p>	<p>Initial Calculated Penalty: \$2,850</p> <p>Total Assessed: \$2,565*</p> <p>Total Paid/Due to General Revenue: \$150/\$2,415</p> <p>The Respondent has paid \$150 of the administrative penalty. The remaining amount of \$2,415 of the administrative penalty shall be payable in 23 monthly payments of \$105 each.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input 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>* Explanation of Initial Penalty Reduction: The penalty was reduced based on the risk of litigation.</p>	<p>Corrective Action(s) Taken:</p> <p>The Executive Director recognizes that Respondent provided to the TCEQ acceptable financial assurance on December 15, 2005.</p>

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005

DATES	Assigned	18-Jul-2005	Screening	08-Aug-2005	EPA Due	
	PCW	07-Nov-2005				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ron Edwards dba Tawakoni Stop II
Reg. Ent. Ref. No.	RN102228111
Facility/Site Region	5-Tyler <input type="checkbox"/> Major/Minor Source <input checked="" type="checkbox"/> Minor Source

CASE INFORMATION			
Enf./Case ID No.	26359	No. of Violations	1
Docket No.	2005-1378-PST-E	Order Type	1660 <input checked="" type="checkbox"/>
Media Program(s)	Petroleum Storage Tank <input checked="" type="checkbox"/>	Enf. Coordinator	Michael Meyer <input checked="" type="checkbox"/>
Multi-Media		EC's Team	Enforcement Team 8 <input checked="" type="checkbox"/>
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-5% Enhancement	Subtotals 2, 3, & 7	-\$150
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Notes: One previous NOV for same or similar violations dated 2/23/2005.

Culpability	No <input checked="" type="checkbox"/> 0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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

Notes: The Respondent is not yet in compliance.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,048	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,950	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,850
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$2,850
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,850
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DEFERRAL	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: The standard deferral is not offered for non-expedited cases.

PAYABLE PENALTY	\$2,850
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Screening Date 08-Aug-2005	Docket No. 2005-1378-PST-E	PCW
Respondent Ron Edwards dba Tawakoni Stop II	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 26359	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102228111		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Michael Meyer		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were disclosed)</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)

>> Repeat Violator (Subtotal 3)

<input type="text" value="No"/>	Adjustment Percentage (Subtotal 3) <input type="text" value="0%"/>
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>> Compliance History Person Classification (Subtotal 7)

<input type="text" value="High Performer"/>	Adjustment Percentage (Subtotal 7) <input type="text" value="-10%"/>
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>> Compliance History Summary

Compliance History Notes	<input type="text" value="One previous NOV for same or similar violations dated 2/23/2005."/>
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Total Adjustment Percentage (Subtotals 2, 3, & 7)

Screening Date	08-Aug-2005	Docket No.	2005-1378-PST-E	PCW
Respondent	Ron Edwards dba Tawakini Stop II			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	26359			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN102228111			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Michael Meyer			
Violation Number	<input type="text" value="1"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 37.815(a) and (b)"/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, as documented by a record review investigation conducted on July 1, 2005			
Base Penalty	<input type="text" value="\$10,000"/>			

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10%"/>

Matrix Notes:

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$2,048"/>	Violation Final Penalty Total <input type="text" value="\$2,850"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,850"/>	

Economic Benefit Worksheet

Respondent Ron Edwards dba Tawakoni Stop II
 Case ID No. 26359
 Reg. Ent. Reference No. RN102228111
 Media [Statute] Petroleum Storage Tank
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	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

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]	\$1,950	01-Dec-2003	01-Dec-2004	1.0	\$98	\$1,950	\$2,048
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for the petroleum USTs based on an annual cost of \$650 per tank multiplied times the number of tanks (3). Date required is one year prior to the initial letter requesting proof of financial assurance.

Approx. Cost of Compliance \$1,950

TOTAL \$2,048

Compliance History

Customer/Respondent/Owner-Operator: CN602512808 EDWARDS, RON Classification: HIGH Rating: 0.000
Regulated Entity: RN102228111 TAWAKONI STOP II Classification: HIGH Site Rating: 0.00
ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION 55512
Location: 2450 FM 47, POINT, TX, 75472 Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: August 18, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 02, 2000 to August 02, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Michael Meyer Phone: (512) 239-4492

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Comments:

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 07/14/2005 (398720)
- 2 07/09/2003 (62440)
- 3 02/23/2005 (398425)

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

Date: 02/23/2005 (398425) Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]
Description: Failure to provide acceptable Financial Assurance.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RON EDWARDS DBA TAWAKONI
STOP II;
TCEQ ID NO. 55512; RN102228111**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2005-1378-PST-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 Ron Edwards dba Tawakoni Stop II ("Mr. Edwards") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Edwards appear before the Commission and together stipulate that:

1. Mr. Edwards owns and operates a convenience store with retail sales of gasoline located at 2450 Farm-to-Market Road 47 in Point, Rains 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 TCEQ rules.
3. The Commission and Mr. Edwards agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Edwards is subject to the Commission's jurisdiction.
4. Mr. Edwards received notice of the violations alleged in Section II ("Allegations") on or about July 19, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Edwards of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of two thousand five hundred sixty-five dollars (\$2,565.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Edwards has paid one hundred fifty dollars (\$150.00) of the

RON EDWARDS DBA TAWAKONI STOP II

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administrative penalty. The remaining amount of two thousand four hundred fifteen (\$2,415.00) of the administrative penalty shall be payable in twenty-three monthly payments of one hundred five dollars (\$105.00) each. The next monthly payment shall be made 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 Mr. Edwards 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 Mr. Edwards to meet the payment schedule of this Agreed Order constitutes the failure of Mr. Edwards 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 Mr. Edwards have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Edwards, on December 15, 2005, provided to the TCEQ acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Edwards has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

RON EDWARDS DBA TAWAKONI STOP II

DOCKET NO. 2005-1191-PST-E

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II. ALLEGATIONS

Mr. Edwards is alleged to have violated 30 TEX. ADMIN. CODE § 37.815(a) and (b) by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs as documented during a record review conducted on July 1, 2005.

III. DENIALS

Mr. Edwards generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Edwards pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Edwards 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: Ron Edwards dba Tawakoni Stop II, Docket No. 2005-1191-PST-E to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon Mr. Edwards. Mr. Edwards 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Edwards 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.

RON EDWARDS DBA TAWAKONI STOP II

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4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Edwards, or three days after the date on which the Commission mails notice of the Order to Mr. Edwards, 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

Bonnie Pennington

For the Executive Director

4/30/08

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

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

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

Ron Edwards
Signature

1-14-08
Date

Ron Edwards
Name (Printed or typed)
Mr. Ron Edwards

Owner
Title