

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2007-2015-UIC-E **TCEQ ID:** RN102316817 **CASE NO.:** 35051
RESPONDENT NAME: Environmental Processing Systems, L.C.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input checked="" 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: Hickory Island Farms Jesse Sinclair Plant, 600 Hatcherville Road, Dayton, Liberty County</p> <p>TYPE OF OPERATION: Underground injection control class 1 commercial non-hazardous waste disposal well</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 June 9, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Ross Fife, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2541; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Diane Harden, Corporate Secretary and Compliance Manager, Environmental Processing Systems, L.C., P.O. Box 819, Cypress, Texas 77410 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: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 26, 2007</p> <p>Date of NOE Relating to this Case: August 30, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to install an adequate annulus monitoring system, to maintain continuous records indicating annulus volume monitoring and failure to record injection parameters continuously. Specifically, the monitoring tank did not have a level gauge, was not hard piped and communicating with the well annulus with an adequate instrumentation or valve system, the Facility did not have records documenting annulus volume monitoring, and the Facility made manual measurements of the injection parameters every two hours on July 10, 2007 during a primary system failure [30 TEX. ADMIN. CODE §§ 331.64(c) and 331.67(a)(1)(b) and WDW-316 Operating Provisions VII-A and IX].</p> <p>2) Failure to use a standard flow meter which can be adequately tested and calibrated quarterly for accuracy. Specifically, flow measurements were based on the pump tachometer readings and fluid level changes in tanks [30 TEX. ADMIN. CODE § 331.63(f) and WDW-316 Operating Provisions VII-A and IX].</p> <p>3) Failure to ensure that the annulus is completely filled with a fluid meeting industry standards. Specifically, no annulus fluid was detected during the initial annulus pressure test conducted on August 10, 2006 [30 TEX. ADMIN. CODE § 331.63(d) and WDW-316 Operating</p>	<p>Total Assessed: \$51,850</p> <p>Total Deferred: \$10,370 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$1,890 (remaining \$39,590 due in 29 monthly payments, the first 28 payments of \$1,366 each and one remaining payment of \$1,342)</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) On October 9, 2006, the Respondent documented that corroded tubing had been replaced and the integrity of the annulus system had been restored; and</p> <p>b) On July 24, 2007, the Respondent submitted the corrected self-reporting form to the TCEQ Corpus Christi Office.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 15 days after the effective date of this Agreed Order, train Facility personnel to maintain records indicating annulus volume monitoring and to record injection parameters every 15 minutes during a primary system failure;</p> <p>b) Within 30 days after the effective date of this Agreed Order, install an adequate annulus monitoring system including a monitoring tank that is hard piped and communicating with the well annulus and has an attached level gauge;</p> <p>c) Within 30 days after the effective date of this Agreed Order, install a standard flow meter which can be adequately calibrated for accuracy; and</p> <p>d) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c.</p>

<p>Provisions VII-A and IX].</p> <p>4) Failure to record operational problems on the self-reporting form for WDW-316. Specifically, a lack of annulus fluid detected on August 10, 2006 required a well work over to repair corroded tubing sections and this work over was not commented on in the Facility's self-reporting form [30 TEX. ADMIN. CODE §§ 331.65(b)(2) and 331.67(a)(4) and WDW-316 Operating Provision X].</p>		
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Additional ID No(s).: None



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	15-Oct-2007	Screening	19-Nov-2007	EPA Due	28-Sep-2007
	PCW	18-Dec-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Environmental Processing Systems, L.C.
Reg. Ent. Ref. No.	RN102316817
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	35051	No. of Violations	4	
Docket No.	2007-2015-UIC-E	Order Type	1660	
Media Program(s)	Underground Injection Control	Enf. Coordinator	Marlin Bullard	
Multi-Media		EC's Team	Enforcement Team 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$42,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	22% Enhancement	Subtotals 2, 3, & 7	\$9,350
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Notes	Enhancement for one NOV with dissimilar violations and one agreed order with a denial of liability within the past five years.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
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Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes	The Respondent does not meet the good faith criteria.
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Total EB Amounts	\$1,678	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$85,300	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$51,850
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$51,850
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$51,850
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DEFERRAL	20%	Reduction	Adjustment	-\$10,370
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$41,480
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Screening Date 19-Nov-2007

Docket No. 2007-2015-UIC-E

PCW

Respondent Environmental Processing Systems, L.C.

Policy Revision 2 (September 2002)

Case ID No. 35051

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102316817

Media [Statute] Underground Injection Control

Enf. Coordinator Marlin Bullard

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>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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 judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

>> 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

Enhancement for one NOV with dissimilar violations and one agreed order with a denial of liability within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 19-Nov-2007

Docket No. 2007-2015-UIC-E

PCW

Respondent Environmental Processing Systems, L.C.

Policy Revision 2 (September 2002)

Case ID No. 35051

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102316817

Media [Statute] Underground Injection Control

Enf. Coordinator Marlin Bullard

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 331.64(c) and 331.67(a)(1)(b) and WDW-316 Operating Provisions VII-A and IX

Violation Description

Failed to install an adequate annulus monitoring system, to maintain continuous records indicating annulus volume monitoring and failure to record injection parameters continuously, as documented during an investigation conducted on June 26, 2007. Specifically, the monitoring tank did not have a level gauge, was not hard piped and communicating with the well annulus with an adequate instrumentation or valve system, the Facility did not have records documenting annulus volume monitoring, and the Facility made manual measurements of the injection parameters every two hours on July 10, 2007 during a primary system failure.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				50%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 5 146 Number of violation days

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

Violation Base Penalty \$25,000

Five monthly events are recommended from the June 26, 2007 investigation date to the November 19, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$454

Violation Final Penalty Total \$30,500

This violation Final Assessed Penalty (adjusted for limits) \$30,500

Economic Benefit Worksheet

Respondent Environmental Processing Systems, L.C.

Case ID No. 35051

Reg. Ent. Reference No. RN102316817

Media Underground Injection Control

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
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Delayed Costs

Equipment	\$5,800	26-Jun-2007	29-Jul-2008	1.1	\$21	\$423	\$444
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	\$200	26-Jun-2007	14-Jul-2008	1.1	\$11	n/a	\$11
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 install an adequate annulus monitoring system. Also included is the cost to train Facility personnel to maintain records indicating annulus volume monitoring and to record injection parameters during a primary system failure. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$6,000

TOTAL \$454

Screening Date 19-Nov-2007

Docket No. 2007-2015-UIC-E

PCW

Respondent Environmental Processing Systems, L.C.

Policy Revision 2 (September 2002)

Case ID No. 35051

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102316817

Media [Statute] Underground Injection Control

Enf. Coordinator Marlin Bullard

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 331.63(f) and WDW-316 Operating Provisions VII-A and IX

Violation Description Failed to use a standard flow meter which can be adequately tested and calibrated quarterly for accuracy, as documented during an investigation conducted on June 26, 2007. Specifically, flow measurements were based on the pump tachometer readings and fluid level changes in tanks.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<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 Human health or the environment could be exposed to pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two quarterly events are recommended from the June 26, 2007 investigation date to the November 19, 2007 screening date.

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 Environmental Processing Systems, L.C.
Case ID No. 35051
Reg. Ent. Reference No. RN102316817
Media Underground Injection Control
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
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No commas or \$

Delayed Costs

Equipment	\$4,800	26-Jun-2007	29-Jul-2008	1.1	\$17	\$350	\$367
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

Estimated cost to use a standard flow meter which can be adequately calibrated for accuracy. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,800

TOTAL

\$367

Screening Date 19-Nov-2007

Docket No. 2007-2015-UIC-E

PCW

Respondent Environmental Processing Systems, L.C.

Policy Revision 2 (September 2002)

Case ID No. 35051

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102316817

Media [Statute] Underground Injection Control

Enf. Coordinator Marlin Bullard

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 331.63(d) and WDW-316 Operating Provisions VII-A and IX

Violation Description

Failed to ensure that the annulus is completely filled with a fluid meeting industry standards, as documented during an investigation conducted on June 26, 2007. Specifically, no annulus fluid was detected during the initial annulus pressure test conducted on August 10, 2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="50%"/>
Potential	<input type="text" value="x"/>	<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

Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Two monthly events are recommended from the August 10, 2006 date of the initial annulus pressure test to the October 9, 2006 compliance date.

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 Environmental Processing Systems, L.C.
Case ID No. 35051
Reg. Ent. Reference No. RN102316817
Media Underground Injection Control
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$74,400	10-Aug-2006	9-Oct-2006	0.2	\$41	\$815	\$856
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

Cost to repair corroded tubing in order to restore integrity to the annulus system. The Date Required is the date the Facility failed the initial annulus pressure test and the Final Date is the date the Facility repaired the corroded tubing.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				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

\$74,400

TOTAL

\$856

Screening Date 19-Nov-2007

Docket No. 2007-2015-UIC-E

PCW

Respondent Environmental Processing Systems, L.C.

Policy Revision 2 (September 2002)

Case ID No. 35051

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102316817

Media [Statute] Underground Injection Control

Enf. Coordinator Marlin Bullard

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 331.65(b)(2) and 331.67(a)(4) and WDW-316 Operating Provision X

Violation Description

Failed to record operational problems on the self-reporting form for WDW-316, as documented during an investigation conducted on June 26, 2007. Specifically, a lack of annulus fluid detected on August 10, 2006 required a well work over to repair corroded tubing sections and this work over was not commented on in the Facility's self-reporting form.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

Matrix Notes

100% of the rule requirement was not met

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

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

One single event is 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 Environmental Processing Systems, L.C.
Case ID No. 35051
Reg. Ent. Reference No. RN102316817
Media Underground Injection Control
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$100	26-Jun-2007	24-Jul-2007	0.1	\$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 The estimated cost to train personnel to correctly fill out self-reporting forms for the Facility. The Date Required is the investigation date and the Final Date is the date the Facility submitted the corrected self-reporting form.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				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	\$100	TOTAL	\$0
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Compliance History

Customer/Respondent/Owner-Operator:	CN601224306 Environmental Processing Systems, L.C.	Classification: AVERAGE	Rating: 7.57
Regulated Entity:	RN102316817 HICKORY ISLAND FARMS JESSE SINCLAIR PLANT	Classification: AVERAGE	Site Rating: 7.57
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	86166
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000036780
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW316
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW317
	AIR NEW SOURCE PERMITS	PERMIT	37112
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CI0168R
Location:	600 HATCHERVILLE RD, DAYTON, TX, 77535		Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	November 19, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 19, 2002 to November 19, 2007		

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

Name: Marlin Bullard Phone: (254) 761-3038

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 10/10/2005	ADMINORDER 2003-1272-UIC-E
Classification: Major	
Citation: 30 TAC Chapter 331, SubChapter D 331.63(b)	
40 CFR Chapter 146, SubChapter D, PT 146, SubPT G 146.67(a)	
Rqmt Prov: UIC Permit No. WDW-316, Provision VII-A PERMIT	
Description: Failed to operate the injection well under the permitted maximum injection pressure limit of 1500 psig.	
Classification: Moderate	
Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)	
Rqmt Prov: WDW 316 PERMIT	
Description: Failed to maintain the liner free of cracks and gaps in the secondary containment for nonhazardous waste tank, T-5.	
Classification: Moderate	
Citation: 30 TAC Chapter 331, SubChapter D 331.65(b)(1)	
30 TAC Chapter 331, SubChapter D 331.67(a)	
Rqmt Prov: WDW 316 PERMIT	
Description: Failure to report self-monitoring data accurately.	

- 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 | 03/01/2003 | (25318) |
| 2 | 03/01/2003 | (26345) |
| 3 | 03/01/2003 | (26350) |
| 4 | 03/28/2003 | (29178) |

5	04/30/2003	(31071)
6	02/06/2004	(261168)
7	03/26/2004	(264960)
8	05/03/2004	(269990)
9	06/17/2004	(273028)
10	12/06/2004	(335473)
11	03/22/2005	(351184)
12	08/10/2005	(400589)
13	08/10/2005	(400930)
14	11/08/2005	(432312)
15	03/14/2006	(454887)
16	04/04/2006	(458221)
17	06/27/2006	(466384)
18	08/29/2006	(497173)
19	08/31/2006	(509870)
20	01/18/2007	(533012)
21	04/25/2007	(555578)
22	08/30/2007	(572979)

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

Date: 03/14/2006 (454887)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)

Description: Failure to submit an Annual Waste Summary for calendar year 2003.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)(22)

Description: Failure to indicate a correct TCEQ waste classification code on manifests.

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
ENVIRONMENTAL PROCESSING
SYSTEMS, L.C.
RN102316817**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-2015-UIC-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Environmental Processing Systems, L.C. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 27. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an underground injection control class 1 commercial non-hazardous waste disposal well at 600 Hatcherville Road in Dayton, Liberty County, Texas (the "Facility").
2. The Respondent is utilizing an injection well as that term is defined in TEX. WATER CODE § 27.002(11).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifty-One Thousand Eight Hundred Fifty Dollars (\$51,850) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid One Thousand Eight Hundred Ninety Dollars (\$1,890) of the administrative penalty and Ten Thousand Three Hundred Seventy Dollars (\$10,370) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Thirty-Nine Thousand Five Hundred Ninety Dollars (\$39,590) of the administrative penalty shall be payable in 29 monthly payments. The first 28 payments shall be One Thousand Three Hundred Sixty-Six Dollars (\$1,366) and the last remaining payment shall be One Thousand Three Hundred Forty-Two Dollars (\$1,342). 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 the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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 the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all 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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On October 9, 2006, the Respondent documented that corroded tubing had been replaced and the integrity of the annulus system had been restored.
 - b. On July 24, 2007, the Respondent submitted the corrected self-reporting form to the TCEQ Corpus Christi Office.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to install an adequate annulus monitoring system, to maintain continuous records indicating annulus volume monitoring and failure to record injection parameters continuously, in violation of 30 TEX. ADMIN. CODES §§ 331.64(c) and 331.67(a)(1)(b) and WDW-316 Operating Provisions VII-A and IX, as documented during an investigation conducted on June 26, 2007. Specifically, the monitoring tank did not have a level gauge, was not hard piped and communicating with the well annulus with an adequate instrumentation or valve system, the Facility did not have records documenting annulus volume monitoring, and the Facility made manual measurements of the injection parameters every two hours on July 10, 2007 during a primary system failure.
2. Failed to use a standard flow meter which can be adequately tested and calibrated quarterly for accuracy, in violation of 30 TEX. ADMIN. CODE § 331.63(f) and WDW-316 Operating Provisions VII-A and IX, as documented during an investigation conducted on June 26, 2007. Specifically, flow measurements were based on the pump tachometer readings and fluid level changes in tanks.
3. Failed to ensure that the annulus is completely filled with a fluid meeting industry standards, in violation of 30 TEX. ADMIN. CODE § 331.63(d) and WDW-316 Operating Provisions VII-A and IX as documented during an investigation conducted on June 26, 2007. Specifically, no annulus fluid was detected during the initial annulus pressure test conducted on August 10, 2006.
4. Failed to record operational problems on the self-reporting form for WDW-316, in violation of 30 TEX. ADMIN. CODE §§ 331.65(b)(2) and 331.67(a)(4) and WDW-316 Operating Provision X as documented during an investigation conducted on June 26, 2007. Specifically, a lack of annulus fluid detected on August 10, 2006 required a well work over to repair corroded tubing sections and this work over was not commented on in the Facility's self-reporting form.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Environmental Processing Systems, L.C., Docket No. 2007-2015-UIC-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 15 days after the effective date of this Agreed Order, train Facility personnel to maintain records indicating annulus volume monitoring and to record injection parameters every 15 minutes during a primary system failure, in accordance with 30 TEX. ADMIN. CODE §§ 331.64(c) and 331.67(a)(1)(b) and WDW-316 Operating Provisions VII-A and IX;
- b. Within 30 days after the effective date of this agree order, install an adequate annulus monitoring system including a monitoring tank that is hard piped and communicating with the well annulus and has an attached level gauge, in accordance with 30 TEX. ADMIN. CODE §§ 331.64(c) and 331.67(a)(1)(b) and WDW-316 Operating Provisions VII-A and IX;
- c. Within 30 days after the effective date of this agreed order, install a standard flow meter which can be adequately calibrated for accuracy, in accordance with 30 TEX. ADMIN CODE § 331.63(f) and WDW-316 Operating Provisions VII-A and IX; and
- d. Within 45 days after the effective date of this Agreed Order, 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. 2.a. through 2.c. 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 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:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

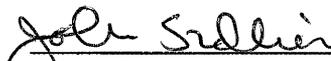
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Environmental Processing Systems, L.C.
DOCKET NO. 2007-2015-UIC-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/2/2008
Date

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

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

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

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



Signature

03-14-08
Date

DIANE HARDEN
Name (Printed or typed)
Authorized Representative of
Environmental Processing Systems, L.C.

CORP. SEC. & COMPL. MGR.
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

