

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0796-MLM-E TCEQ ID: RN101702439 CASE NO.: 29870
RESPONDENT NAME: WASTE CONTROL SPECIALISTS LLC

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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" 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 checked="" type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 9998 West State Highway 176, Andrews, Andrews County</p> <p>TYPE OF OPERATION: commercial waste transfer treatment, storage, and disposal facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 July 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney: Mr. Robert Mosley, Litigation Division, MC 175, (512)239-0627 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p>SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175 (512) 239-2223</p> <p>TCEQ Enforcement Coordinator: Mr. Craig Fleming, Enforcement Section, MC 219, (512) 239-5806</p> <p>TCEQ Regional Contact: Mr. Terry McMillan, El Paso Regional Office, MC R-6, (915) 834-4953</p> <p>Respondent: Mr. Guy Crawford, Ph.D., Director of Environmental Safety and Health/RSO, Waste Control Specialists, LLC, 5430 LBJ Freeway, Ste. 1700, Three Lincoln Center, Dallas, Texas 75240</p> <p>Respondent's Attorney: Mr. Michael Woodward, Hance Scarborough Wright Woodward & Weisbart, L.L.P., 111 Congress Avenue, Suite 500, 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 type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: N/A</p> <p>Dates of Investigation Relating to this Case: August 24, 2005; February 6-9, 2006; June 7, 2006</p> <p>Date of NOE Relating to this Case: June 9, 2006</p> <p>Background Facts: Case was referred to the Litigation Division on October 9, 2006. Extensive settlement negotiations were conducted.</p> <p>A signed Agreed Order was received on March 25, 2008.</p> <p>This action was initiated on information provided by a Texas Department of State Health Services investigation occurring on and before August 24, 2005.</p> <p>MLM:</p> <p>1. Failed to receive authorization prior to injecting radioactive wastes into or above a formation, located within one-quarter mile of the well that serves as an underground source of drinking water, and failed to obtain a radioactive materials disposal license prior to disposing radioactive material [30 TEX. ADMIN. CODE §§331.6 and 336.203].</p> <p>2. Failed to prevent the collection, handling, storage, processing, or disposal of industrial solid waste in a manner as to cause the creation and maintenance of a nuisance or the endangerment of the public health and welfare [30 TEX. ADMIN. CODE §335.42(2) and (3)].</p>	<p>Total Assessed: \$151,200</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$65,970</p> <p>Total Paid/Due to General Revenue: \$85,230/\$65,970</p> <p>The Respondent has paid \$85,230 of the assessed penalty. The remaining amount of \$65,970 of the administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</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 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>Ordering Provisions: The Respondent shall implement and complete an SEP.</p> <p>Corrective Action(s) Taken: The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> 1. Disconnected the laboratory discharge from the existing septic system. 2. Constructed a concrete vault containing two tanks to manage the laboratory wastes. 3. Plugged the septic tanks to prevent further discharge. 4. Covered the drain field with plastic to prevent migration of the contaminants. <p>Technical Requirements: The Respondent shall undertake the following technical requirements:</p> <p>Within 30 days:</p> <ol style="list-style-type: none"> a. Ensure that all Facility representatives have received training and instruction in the operation and safety procedures for the management and disposal of hazardous and radioactive wastes; b. Submit a plan to the Executive Director for approval for the removal and handling of the contents of the septic tanks including the administration building/laboratory septic system, the replacement administration building/laboratory septic system, and the mixed waste treatment facility septic system. The plan shall include procedures for on-site treatment of the biological content of the material, procedures for management of the contents to ensure that exposure to radiological components of the material are maintained as low as reasonably achievable and a schedule for implementing the plan. Upon approval of the plan by the Executive Director, the Respondent shall implement the plan in accordance with the approved schedule;

		<p>c. Ensure that all Facility representatives have received training and instruction in the operation and safety procedures for the management and disposal of hazardous and radioactive wastes; and</p> <p>d. Submit a plan to the Executive Director for approval for the removal and handling of the contents of the septic tanks including the administration building/laboratory septic system, the replacement administration building/laboratory septic system, and the mixed waste treatment facility septic system. The plan shall include procedures for on-site treatment of the biological content of the material, procedures for management of the contents to ensure that exposure to radiological components of the material are maintained as low as reasonably achievable and a schedule for implementing the plan. Upon approval of the plan by the Executive Director, the Respondent shall implement the plan in accordance with the approved schedule.</p> <p>2. Within 90 days, submit an affected Property Assessment Report, for the railcar unloading area to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program.</p> <p>3. Within 210 days, submit an Affected Property Assessment Report for the septic system including but not limited to the tanks and septic drain field, previously connected to the laboratory and administration buildings, to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program.</p> <p>4. Within 225 days, submit written certification demonstrating compliance.</p>
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Attachment A
Docket Number: 2006-0796-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Waste Control Specialists, LLC

Penalty Amount: One Hundred Fifty-One Thousand Two Hundred dollars (\$151,200)

SEP Amount: Sixty-Five Thousand Nine Hundred Seventy dollars (\$65,970)

Type of SEP: Pre-approved

Third-Party Recipient: City of Andrews *First Time Water & Sewer Service for Low Income Residents*

Location of SEP: Andrews County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the City of Andrews shall use the contribution toward its *First Time Water & Sewer Service for Low Income Residents* project. SEP funds will be used to provide first time water and sewer service for older, single-family, low-income residences in the 600 block of Southwest 11th Place. The area to be serviced contains open sewage pits and nearby abandoned water wells that have not been properly closed. The sewage pits and open wells are a hazard to human health and the environment.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action. The SEP shall be performed in accordance with all federal, state, and local regulations and laws.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by eliminating the public health hazards associated with open sewage pits and potential contamination of drinking water sources.

Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. **Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall ensure that the docket number of the case is noted on the check and shall mail the contribution, with a copy of the Agreed Order, to:

Glenn Hackler, City Manager
City of Andrews
111 Logsdon
Andrews, Texas 79714-6589

3. **Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. **Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

Waste Control Specialists, LLC
Agreed Order – Attachment A Docket No, 2006-0796-MLM-E

In the event of incomplete performance, the check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	12-Jun-2006	Screening	19-Jun-2006	EPA Due	7-Apr-2007
	PCW	27-Feb-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Waste Control Specialists LLC
Reg. Ent. Ref. No.	RN101702439
Facility/Site Region	7-Midland
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	29870	No. of Violations	2
Docket No.	2006-0796-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	J. Craig Fleming
Multi-Media	Radioactive Substances, UIC, Solid Waste	EC's Team	Enforcement Team 4
Waste	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal: 1:	\$140,000
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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	8% Enhancement	Subtotals: 2, 3, & 7:	\$11,200
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Notes The administrative penalty is enhanced because the respondent has four NOV's for non-similar violations for this facility.

Culpability	No	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 x)

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

	0% Enhancement*	Subtotal: 6:	\$0
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Total EB Amounts	\$13,735	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	\$151,000	

SUM OF SUBTOTALS 1-7	Final: Subtotal:	\$151,200
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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	\$151,200
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty:	\$151,200
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DEFERRAL	0% 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

Deferral not offered for non-expedited settlement

PAYABLE PENALTY	\$151,200
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Screening Date: 19-Jun-2006

Docket No. 2006-0796-MLM-E

PCW

Respondent: Waste Control Specialists LLC

Policy Revision 2 (September 2002)

Case ID No: 29870

PCW Revision January 9, 2007

Reg. Ent. Reference No: RN101702439

Media [Statute]: Industrial and Hazardous Waste

Enf. Coordinator: J. Craig Fleming

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	4	8%
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%
<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) 8%

>> **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 administrative penalty is enhanced because the respondent has four NOVs for non-similar violations for this facility.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 8%

Screening Date 19-Jun-2006

Docket No. 2006-0796-MLM-E

PCW

Respondent Waste Control Specialists LLC

Policy Revision 2 (September 2002)

Case ID No. 29870

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101702439

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator J. Craig Fleming

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 331.6 and 336.203

Violation Description

Injected radioactive wastes without authorization into or above a formation, located within one-quarter mile of the well that serves as an underground source of drinking water; and disposed of radioactive material without having a radioactive material disposal license. Specifically, the respondent has allowed the introduction of radioactive materials, particularly Americium-241, Plutonium-239, and Radium-226 into the facility administration building/laboratory septic system, as documented during investigations conducted on February 6-9, and June 7, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to properly dispose of hazardous fluids or radioactive materials has exposed human health or the environment to significant amounts of pollutants as the result of this violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 19

553 Number of violation days

daily	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$95,000

Nineteen monthly events are recommended as of August 24, 2005 when the violation was first documented to the date of settlement on February 27, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9,096

Violation Final Penalty Total \$102,600

This violation Final Assessed Penalty (adjusted for limits) \$102,600

Economic Benefit Worksheet

Respondent: Waste Control Specialists LLC
Case ID No.: 29870
Reg. Ent. Reference No.: RN101702439
Media: Industrial and Hazardous Waste
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$25,000	7-Jun-2006	1-Apr-2008	1.8	\$2,274	n/a	\$2,274
Remediation/Disposal	\$75,000	7-Jun-2006	1-Apr-2008	1.8	\$6,822	n/a	\$6,822
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to sample and properly remove the contaminated soil. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$100,000

TOTAL

\$9,096

Screening Date 19-Jun-2006

Docket No. 2006-0796-MLM-E

PCW

Respondent Waste Control Specialists LLC

Policy Revision 2 (September 2002)

Case ID No. 29870

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101702439

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.4(2) and (3)

Violation Description Caused, suffered, allowed, or permitted the collection, handling, storage, processing, or disposal of industrial solid waste in such a manner as to cause the creation and maintenance of a nuisance or the endangerment of the public health and welfare. Specifically, the railcar unloading area had elevated amounts of metal contamination, as documented by the investigation conducted on June 7, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (50%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Failure to properly manage hazardous wastes has exposed human health or the environment to significant amounts of pollutants as a result of this violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 9 Number of violation days 266

Frequency selection table: daily, monthly (checked), quarterly, semiannual, annual, single event.

Violation Base Penalty \$45,000

Nine monthly events are recommended from the date of the investigation conducted on June 7, 2006 to the date of settlement on February 27, 2007.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$4,639

Violation Final Penalty Total \$48,600

This violation Final Assessed Penalty (adjusted for limits) \$48,600

Economic Benefit Worksheet

Respondent: Waste Control Specialists LLC
Case ID No.: 29870
Reg. Ent. Reference No.: RN101702439
Media: Industrial and Hazardous Waste
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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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	\$1,000	7-Jun-2006	1-Apr-2008	1.8	\$91	n/a	\$91
Remediation/Disposal	\$50,000	7-Jun-2006	1-Apr-2008	1.8	\$4,548	n/a	\$4,548
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to sample and remediate the contaminated soil near the railroad offloading area. Date Required was the date of the investigation. The Final Date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$51,000

TOTAL

\$4,639

Compliance History

Customer/Respondent/Owner-Operator:	CN600616890 Waste Control Specialists LLC	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN101702439 WASTE CONTROL SPECIALISTS	Classification: HIGH	Site Rating: 0.00
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD988088464
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	50358
	INDUSTRIAL AND HAZARDOUS WASTE DISPOSAL	PERMIT	50358
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50358
	WASTEWATER	PERMIT	WQ0004038000
	WASTEWATER	PERMIT	TPDES0117005
	WASTEWATER	PERMIT	TX0117005
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	73836
	AIR NEW SOURCE PERMITS	PERMIT	42916
	AIR NEW SOURCE PERMITS	PERMIT	48157
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	AB0164V
	AIR NEW SOURCE PERMITS	AFS NUM	0044
	AIR NEW SOURCE PERMITS	PERMIT	72653
Location:	9998 W STATE HIGHWAY 176, ANDREWS COUNTY		Rating Date: 9/1/2005 Repeat Violator: NO
TCEQ Region:	REGION 07 - MIDLAND		
Date Compliance History Prepared:	June 16, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 16, 2001 to June 16, 2006		

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

Name: J. Craig Fleming Phone: 239-5806

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | | |
|-----|----|------------|----------|
| N/A | 1 | 01/25/2006 | (453238) |
| | 2 | 07/03/2003 | (126923) |
| | 3 | 02/23/2006 | (455617) |
| | 4 | 03/22/2005 | (389609) |
| | 5 | 08/26/2005 | (447261) |
| | 6 | 07/01/2004 | (278490) |
| | 7 | 11/23/2004 | (389610) |
| | 8 | 06/09/2006 | (481729) |
| | 9 | 12/13/2004 | (336914) |
| | 10 | 09/26/2005 | (447262) |

11 04/15/2003 (31592)
12 01/24/2005 (389611)
13 01/10/2005 (344650)
14 02/10/2005 (350059)
15 01/27/2003 (230872)
16 01/23/2002 (230871)
17 12/30/2002 (230869)
18 01/03/2003 (20076)
19 12/19/2001 (230868)
20 11/05/2002 (230866)
21 11/19/2001 (230865)
22 07/10/2003 (230863)
23 07/09/2004 (278829)
24 05/26/2004 (273328)
25 10/19/2001 (230862)
26 06/25/2001 (230861)
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30 08/23/2002 (230857)
31 08/23/2001 (230856)
32 06/25/2001 (230855)
33 07/24/2002 (230854)
34 05/04/2004 (366210)
35 07/20/2001 (230853)
36 06/09/2004 (366211)
37 06/25/2001 (230852)
38 07/12/2004 (366212)
39 02/25/2005 (430686)
40 07/10/2003 (230851)
41 08/25/2003 (366213)
42 04/22/2005 (430687)
43 06/25/2002 (230850)
44 02/24/2004 (325938)
45 08/24/2004 (366214)
46 06/25/2001 (230849)
47 06/03/2005 (430688)
48 03/14/2003 (325939)
49 09/23/2004 (366215)
50 06/25/2001 (230848)
51 06/24/2005 (430689)
52 03/30/2004 (325940)
53 10/25/2004 (366216)
54 05/17/2002 (230847)
55 04/23/2002 (325941)
56 07/25/2005 (430690)
57 12/27/2004 (366217)
58 04/16/2004 (325942)
59 06/25/2001 (230845)
60 05/27/2003 (325943)
61 04/28/2003 (230844)
62 09/23/2003 (325944)
63 06/25/2001 (230843)

64 10/30/2003 (325945)
 65 06/25/2001 (230842)
 66 11/25/2003 (325946)
 67 03/19/2002 (230841)
 68 12/29/2003 (325947)
 69 01/26/2004 (325948)
 70 02/26/2003 (230839)
 71 02/25/2002 (230838)
 72 06/25/2001 (230836)
 73 02/18/2004 (258131)
 74 11/17/2003 (250952)
 75 02/17/2006 (456128)
 76 06/28/2004 (276549)
 77 07/06/2004 (278806)

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

1. Date: 01/06/2005 (344650)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter O 335.431(c)[G]

40 CFR Chapter 268, SubChapter I, PT 268, SubPT E 268.50(c)

Description: WCS has stored hazardous mixed wastes for greater than a year without providing the necessary notification for such storage.

2. Date: 10/31/2004 (389610)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

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

3. Date: 01/05/2004 (258131)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter O 335.431(c)[G]

Description: It was observed during the investigation that hazardous mixed waste was being stored for more than one year.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.2(g)

40 CFR Chapter 261, SubChapter I, PT 261, SubPT A 261.4(e)

40 CFR Chapter 261, SubChapter I, PT 261, SubPT A 261.4(f)

Description: Hazardous wastes involved in treatability studies have been held in storage for greater than a year in violation of 40 CFR 261.4(e) and (f).

4. Date: 02/17/2006 (456128)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: The permittee was found to be in violation of their Outfall 101 average daily flow parameter (0.020 MGD) in 5 months of 2005.

F. Environmental audits.

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 WASTE
CONTROL SPECIALISTS LLC,
RN101702439

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-0796-MLM-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 Waste Control Specialists LLC ("WCS") under the authority of TEX. WATER CODE chs. 7 and 27 and TEX. HEALTH & SAFETY CODE chs. 361 and 401. The Executive Director of the TCEQ, represented by the Litigation Division, and WCS, represented by Michael Woodward of the law firm of Hance Scarborough Wright Woodward & Weisbart, L.L.P., appear before the Commission and together stipulate that:

1. WCS owns and operates a commercial waste transfer, treatment, storage, and disposal facility at 9998 West State Highway 176 in Andrews, Andrews 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. 27, TEX. HEALTH & SAFETY CODE chs. 361 and 401, and the TCEQ rules.
3. The Commission and WCS agree that the Commission has jurisdiction to enter this Agreed Order, and that WCS is subject to the Commission's jurisdiction.
4. WCS received notices of the violations alleged in Section II ("Allegations") on or about November 8, 2005 and June 14, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by WCS of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of one hundred fifty-one thousand two hundred dollars (\$151,200.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). WCS has paid eighty-five thousand two hundred thirty dollars (\$85,230.00) of the administrative penalty. Sixty-five thousand nine hundred seventy dollars (\$65,970.00) of the assessed administrative penalty shall be offset with the condition that WCS implement the Supplemental Environmental Project ("SEP") defined in Attachment A, incorporated herein by reference. WCS's obligation to pay the conditionally offset portion of the administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
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 WCS 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 Waste Control has implemented the following corrective measures at the Facility:
 - a. Disconnected the laboratory discharge from the existing septic system prior to the investigation conducted on February 8, 2006;
 - b. Constructed a concrete vault containing two tanks to manage the laboratory wastes;
 - c. Plugged the septic tanks to prevent further discharge; and
 - d. Covered the drain field with plastic to prevent migration of the contaminants.
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 WCS 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

WCS is alleged to have violated:

1. 30 TEX. ADMIN. CODE §§ 331.6 and 336.203 by injecting radioactive wastes without authorization into or above a formation, located within one-quarter mile of the well that serves as an underground source of drinking water, and disposed of radioactive material without having a radioactive material disposal license. Specifically, WCS has allowed the introduction of radioactive materials, particularly Americium-241, Plutonium-239, and Radium-226 into the Facility administration building/laboratory septic system, as documented during investigations conducted on February 6, 2006 through February 9, 2006 and June 7, 2006.
2. 30 TEX. ADMIN. CODE § 335.42(2) and (3) by causing, suffering, allowing, or permitting the collection, handling, storage, processing, or disposal of industrial solid waste in a manner as to cause the creation and maintenance of a nuisance or the endangerment of the public health and welfare. Specifically, the railcar unloading area had elevated amounts of metal contamination, as documented by an investigation conducted on June 7, 2006.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that WCS pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and WCS'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 or 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: Waste Control Specialists LLC, Docket No. 2006-0796-MLM-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. WCS shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. Sixty-five thousand nine hundred seventy dollars (\$65,970.00) of the assessed administrative penalty shall be offset with the condition that WCS implement the SEP defined in Attachment A, incorporated herein by reference. WCS's obligation to pay the conditionally offset portion of the administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. WCS shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, WCS shall ensure that all Facility representatives have received training and instruction in the operation and safety procedures for the management and disposal of hazardous and radioactive wastes.
 - b. Within 30 days after the effective date of this Agreed Order, WCS shall submit a plan to the Executive Director for approval for the removal and handling of the contents of the septic tanks including the administration building/ laboratory septic system, the replacement administration building/ laboratory septic system, and the mixed waste treatment facility septic system. The plan shall include procedures for on-site treatment of the biological content of the material, procedures for management of the contents to ensure that exposure to radiological components of the material are maintained as low as reasonably achievable and a schedule for implementing the plan. Upon approval of the plan by the Executive Director, WCS shall implement the plan in accordance with the approved schedule.
 - c. Within 90 days after the effective date of this Agreed Order, WCS shall submit an **Affected Property Assessment Report**, pursuant to 30 TEX. ADMIN. CODE § 350.91, for the railcar unloading area to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F. The Affected Property Assessment Report shall be submitted to:

Office of Permitting, Remediation, and Registration
Remediation Division
P. O. Box 13087
Austin, Texas 78711-3087

- d. Within 210 days after the effective date of this Agreed Order, WCS shall submit an **Affected Property Assessment Report**, pursuant to 30 TEX. ADMIN CODE § 350.91, for the septic system including but not limited to the tanks and septic drain field, previously connected to the laboratory and administration buildings, to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F. The Affected Property Assessment Report shall be submitted to:

Office of Permitting, Remediation, and Registration
Remediation Division
P. O. Box 13087
Austin, Texas 78711-3087

- e. Within 225 days after the effective date of this Agreed Order, WCS shall submit written certification as described below, and include detailed supporting documentation including photographs, labeling, new or repair documents, etc, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a., 3.b., 3.c. and 3.d. With respect to 3.c. and 3.d., WCS shall certify the timely submission of the Affected Property Assessment Reports.

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:

Michael Edmiston
Waste Section, Manager
Midland Regional Office
Texas Commission on Environmental Quality
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5404

- f. Ordering Provisions 3.b., 3.c., and 3.d. establish the procedures and timing for response to the referenced railcar unloading area and septic systems in lieu of Section IX of TCEQ Permit No. HW-50358 issued to WCS.
4. The provisions of this Agreed Order shall apply to and be binding upon WCS. WCS 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.
5. If WCS 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, WCS's failure to comply is not a violation of this Agreed Order. WCS shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. WCS shall notify the Executive Director within seven days after WCS becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by WCS shall be made in writing to the Executive Director. Extensions are not effective until WCS receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against WCS in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this

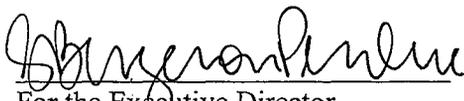
Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. 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.
9. 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 WCS, or three days after the date on which the Commission mails notice of the Order to WCS, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/10/2008
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.



Signature

3/19/08
Date

Rodney A. Baltzer
Name (Printed or typed)
Authorized representative of
Waste Control Specialists LLC

President
Title

Attachment A
Docket Number: 2006-0796-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Waste Control Specialists, LLC
Penalty Amount: One Hundred Fifty-One Thousand Two Hundred dollars (\$151,200)
SEP Amount: Sixty-Five Thousand Nine Hundred Seventy dollars (\$65,970)
Type of SEP: Pre-approved
Third-Party Recipient: City of Andrews *First Time Water & Sewer Service for Low Income Residents*
Location of SEP: Andrews County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the City of Andrews shall use the contribution toward its *First Time Water & Sewer Service for Low Income Residents* project. SEP funds will be used to provide first time water and sewer service for older, single-family, low-income residences in the 600 block of Southwest 11th Place. The area to be serviced contains open sewage pits and nearby abandoned water wells that have not been properly closed. The sewage pits and open wells are a hazard to human health and the environment.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action. The SEP shall be performed in accordance with all federal, state, and local regulations and laws.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by eliminating the public health hazards associated with open sewage pits and potential contamination of drinking water sources.

Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall ensure that the docket number of the case is noted on the check and shall mail the contribution, with a copy of the Agreed Order, to:

Glenn Hackler, City Manager
City of Andrews
111 Logsdon
Andrews, Texas 79714-6589

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

Waste Control Specialists, LLC
Agreed Order – Attachment A Docket No, 2006-0796-MLM-E

In the event of incomplete performance, the check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.