

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2007-1088-IHW-E **TCEQ ID:** RN100583236 **CASE NO.:** 34165
RESPONDENT NAME: Bill Phillips dba Scrub-A-Dubb Barrel Company

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 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 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: Scrub-A-Dubb Barrel Company, 1108 North Ash Avenue, Lubbock, Lubbock County</p> <p>TYPE OF OPERATION: Barrel cleaning and refurbishment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: Two complaints were received January 11, 2007 and May 2, 2007, for the disposal of unknown substances at the Facility. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: Complaints were received, but the complainants have not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 2, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Colin Barth, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0086; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Billy C. Phillips, Owner, Scrub-A-Dubb Barrel Company, 1108 North Ash Avenue, Lubbock, Texas 79403 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: January 11, 2007 and May 2, 2007</p> <p>Date of Investigation Relating to this Case: January 11, 2007 and May 2, 2007</p> <p>Date of NOV/NOE Relating to this Case: February 1, 2007 and June 1, 2007 (NOE)</p> <p>Background Facts: These were complaint investigations.</p> <p>WASTE</p> <p>1) Failure to prevent and immediately abate and contain a spill or discharge of oily industrial waste. Specifically, two concrete retaining basins at the Facility discharged approximately 500 gallons of oily industrial waste onto the ground. The discharge flowed across the property and into an alley maintained by the City of Lubbock [30 TEX. ADMIN. CODE § 327.5(a)].</p> <p>2) Failure to prevent and immediately abate and contain a spill or discharge of oily industrial waste and failure to prevent the discharge of hazardous waste into or adjacent to water in the state. Specifically, a storage tank at the Facility discharged approximately 842 gallons of oily industrial waste onto the ground which flowed into a bar ditch that leads to Blackwater Draw [30 TEX. ADMIN. CODE §§ 327.5(a), 335.4(1) and TEX. WATER CODE § 26.121(a)].</p> <p>3) Failure to notify the agency within 24 hours after the discovery of a spill or discharge and failure to submit a 30 day report describing the details of the discharge and supporting the adequacy of the response action. Specifically, during the investigation conducted on January 11, 2007, it was observed that approximately 500 gallons of oily industrial waste was discharged from the Facility and into an</p>	<p>Total Assessed: \$10,350</p> <p>Total Deferred: \$2,070 <input checked="" type="checkbox"/> Expedited Settlement <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$100 The remaining amount of Eight Thousand One Hundred Eighty Dollars (\$8,180) of the administrative penalty shall be payable in 30 monthly payments of One Hundred Dollars (\$100) each and, beginning November 2010, two payments of One Thousand Seven Hundred Fifty Dollars (\$1,750) and a final payment of One Thousand Six Hundred Eighty Dollars (\$1,680).</p> <p>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is able to pay the full payable penalty in accordance with the installment schedule detailed above.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, implement procedures to ensure the agency is notified within 24 hours after the discovery of a spill or discharge and a 30 day report will be submitted to the agency describing the details of the discharge and supporting the adequacy of the response action;</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, 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; and</p> <p>c. 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 Provisions a. and b.</p>

<p>alley maintained by the City of Lubbock. Also, during the May 2, 2007 investigation, it was noted that approximately 842 gallons of oily industrial waste was discharged from the Facility and into a ditch adjacent to Ash Avenue. Neither of these two discharge events were followed by notification to the agency or a 30 day report [30 TEX. ADMIN. CODE §§ 327.3(b) and 327.5(c)].</p>		
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Additional ID No(s): TXD097054878



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	4-Jun-2007	Screening	10-Jul-2007	EPA Due	
	PCW	10-Jul-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Bill Phillips dba Scrub-a-Dubb Barrel Company		
Reg. Ent. Ref. No.	RN100583236		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34165	No. of Violations	3	
Docket No.	2007-1088-IHW-E	Order Type	1660	
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Colin Barth	
Multi-Media		EC's Team	EnforcementTeam 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

Before NOV NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/> X	(mark with x)

Notes

0% Enhancement* **Subtotal 6**

Total EB Amounts	\$964
Approx. Cost of Compliance	\$16,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 10-Jul-2007

Docket No. 2007-1088-IHW-E

PCW

Respondent Bill Phillips dba Scrub-a-Dubb Barrel Company

Policy Revision 2 (September 2002)

Case ID No. 34165

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN100583236

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

The Respondent is classified as a high performer and has no record of any previous NOVs or Orders at this site in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 10-Jul-2007

Docket No. 2007-1088-IHW-E

PCW

Respondent Bill Phillips dba Scrub-a-Dubb Barrel Company

Policy Revision 2 (September 2002)

Case ID No. 34165

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN100583236

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Bill Phillips dba Scrub-a-Dubb Barrel Company

Case ID No. 34165

Reg. Ent. Reference No. RN100583236

Media Industrial and Hazardous Waste

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$5,000	11-Jan-2007	12-Mar-2008	1.2	\$292	n/a	\$292
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,500	11-Jan-2007	12-Mar-2008	1.2	\$146	n/a	\$146

Notes for DELAYED costs

Estimated cost to immediately abate and contain discharges of oily industrial waste. Also included is the estimated cost to clean up areas contaminated from the discharge of approximately 500 gallons of oily industrial waste. The date required is the investigation date 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

\$7,500

TOTAL

\$438

Screening Date 10-Jul-2007

Docket No. 2007-1088-IHW-E

PCW

Respondent Bill Phillips dba Scrub-a-Dubb Barrel Company

Policy Revision 2 (September 2002)

Case ID No. 34165

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN100583236

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 327.5(a), 335.4(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent and immediately abate and contain a spill or discharge of oily industrial waste into or adjacent to water in the state. Specifically, a storage tank at the Facility discharged approximately 842 gallons of oily industrial waste onto the ground which flowed into a bar ditch that leads to Blackwater Draw.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

69 Number of violation days

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date of May 2, 2007 to the screening date of July 10, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$367

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet

Respondent Bill Phillips dba Scrub-a-Dubb Barrel Company
Case ID No. 34165
Reg. Ent. Reference No. RN100583236
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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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$6,000	2-May-2007	12-Mar-2008	0.9	\$259	n/a	\$259
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,500	2-May-2007	12-Mar-2008	0.9	\$108	n/a	\$108

Notes for DELAYED costs

Estimated cost to immediately abate and contain discharges of oily industrial waste. Also included is the estimated cost to clean up areas contaminated from the discharge of approximately 842 gallons of oily industrial waste. The date required is the investigation date 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

\$8,500

TOTAL

\$367

Screening Date 10-Jul-2007

Docket No. 2007-1088-IHW-E

PCW

Respondent Bill Phillips dba Scrub-a-Dubb Barrel Company

Policy Revision 2 (September 2002)

Case ID No. 34165

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN100583236

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

Violation Number

Rule Cite(s)

Violation Description

Failed to notify the agency within 24 hours after the discovery of a spill or discharge and failed to submit a 30 day report describing the details of the discharge and supporting the adequacy of the response action, as documented during investigations conducted on January 11, 2007 and May 2, 2007. Specifically, during the investigation conducted on January 11, 2007, it was observed that approximately 500 gallons of oily industrial waste was discharged from the Facility and into an alley maintained by the City of Lubbock. Also, during the May 2, 2007 investigation, it was noted that approximately 842 gallons of oily industrial waste was discharged from the Facility and into a ditch adjacent to Ash Avenue. Neither of these two discharge events were followed by the required notifications or 30 day reports.

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="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text" value="100% of the rule requirement was not met."/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	

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

Four single events are recommended one for each missing notification and each missing report.

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 Bill Phillips dba Scrub-a-Dubb Barrel Company
Case ID No. 34165
Reg. Ent. Reference No. RN100583236
Media Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

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	\$500	11-Jan-2007	2-May-2007	0.3	\$8	\$152	\$160
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

Estimated cost to notify the agency within 24 hours after the discovery of a spill or discharge and to submit a 30 day report describing the details of the discharge and supporting the adequacy of the response action. The date required is the date in which the first discharge was observed and the final date is the second discharge.

Approx. Cost of Compliance \$500

TOTAL \$160

Compliance History

Customer/Respondent/Owner-Operator: CN603184037 PHILLIPS, BILL Classification: HIGH Rating: 0.00
Regulated Entity: RN100583236 SCRUB-A-DUBB BARREL COMPANY Classification: HIGH Site Rating: 0.00
ID Number(s):
Location: 1108 N ASH AVE, LUBBOCK, TX, 79408 Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region: REGION 02 - LUBBOCK
Date Compliance History Prepared: July 09, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 09, 2002 to July 09, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Colin Barth Phone: 512 239 0086

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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.)
1 01/20/2006 (452538)
2 01/24/2007 (537532)
3 02/01/2007 (537640)
4 03/19/2007 (553968)
5 03/19/2007 (553808)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
BILL PHILLIPS DBA SCRUB-A-DUBB
BARREL COMPANY
RN100583236**

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

**AGREED ORDER
DOCKET NO. 2007-1088-IHW-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 Bill Phillips dba Scrub-A-Dubb Barrel Company ("Mr. Phillips") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Phillips appear before the Commission and together stipulate that:

1. Mr. Phillips owns and operates a barrel cleaning and refurbishment facility at 1108 North Ash Avenue in Lubbock, Lubbock County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste and industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and Mr. Phillips agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Phillips is subject to the Commission's jurisdiction.
4. Mr. Phillips received notice of the violations alleged in Section II ("Allegations") on or about February 6, 2007 and June 6, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Phillips of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Ten Thousand Three Hundred Fifty Dollars (\$10,350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by Mr. Phillips and determined that Mr. Phillips is able to pay the administrative penalty. Two Thousand Seventy Dollars (\$2,070) of the penalty is deferred contingent upon Mr. Phillips' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Phillips fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Phillips to pay all or part of the deferred penalty.

Mr. Phillips has paid One Hundred Dollars (\$100) of the administrative penalty. The remaining amount of Eight Thousand One Hundred Eighty Dollars (\$8,180) of the administrative penalty shall be payable in 30 monthly payments of One Hundred Dollars (\$100) each, then two monthly payments of One Thousand Seven Hundred Fifty Dollars (\$1,750) and a final remaining payment of One Thousand Six Hundred Eighty Dollars (\$1,680). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. If Mr. Phillips 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 Mr. Phillips to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Phillips 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 Mr. Phillips have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Phillips has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Mr. Phillips is alleged to have:

1. Failed to prevent and immediately abate and contain a spill or discharge of oily industrial waste, in violation of 30 TEX. ADMIN. CODE § 327.5(a), as documented during an investigation

conducted on January 11, 2007. Specifically, two concrete retaining basins at the Facility discharged approximately 500 gallons of oily industrial waste onto the ground. The discharge flowed across the property and into an alley maintained by the City of Lubbock.

2. Failed to prevent and immediately abate and contain a spill or discharge of oily industrial waste and failed to prevent the discharge of hazardous waste into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE §§ 327.5(a), 335.4(1) and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on May 2, 2007. Specifically, a storage tank at the Facility discharged approximately 842 gallons of oily industrial waste onto the ground which flowed into a bar ditch that leads to Blackwater Draw.
3. Failed to notify the agency within 24 hours after the discovery of a spill or discharge and failed to submit a 30 day report describing the details of the discharge and supporting the adequacy of the response action, in violation of 30 TEX. ADMIN. CODE §§ 327.3(b) and 327.5(c), as documented during investigations conducted on January 11, 2007 and May 2, 2007. Specifically, during the investigation conducted on January 11, 2007, it was observed that approximately 500 gallons of oily industrial waste was discharged from the Facility and into an alley maintained by the City of Lubbock. Also, during the May 2, 2007 investigation, it was noted that approximately 842 gallons of oily industrial waste was discharged from the Facility and into a ditch adjacent to Ash Avenue. Neither of these two discharge events were followed by notification to the agency or a 30 day report.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Phillips pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Phillips' 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: Bill Phillips dba Scrub-A-Dubb Barrel Company, Docket No. 2007-1088-IHW-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 Mr. Phillips shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, implement procedures to ensure the agency is notified within 24 hours after the discovery of a spill or discharge

and a 30 day report will be submitted to the agency describing the details of the discharge and supporting the adequacy of the response action, in accordance with 30 TEX. ADMIN. CODE §§ 327.3(b) and 327.5(c);

- b. Within 30 days after the effective date of this Agreed Order, submit an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, 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(l)); and Institutional Controls under Subchapter F; and
- c. 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. and 2.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Phillips. Mr. Phillips 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 Mr. Phillips 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, Mr. Phillips' failure to comply is not a violation of this Agreed Order. Mr. Phillips shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Phillips shall notify the Executive Director within seven days after Mr. Phillips 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 Mr. Phillips shall be made in writing to the Executive Director. Extensions are not effective until Mr. Phillips 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 Mr. Phillips 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 Mr. Phillips, or three days after the date on which the Commission mails notice of the Order to Mr. Phillips, 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

John Srdelin

For the Executive Director

7/21/2008

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.

Billy C. Phillips

Signature

3-18-08

Date

BILLY C. PHILLIPS

Name (Printed or typed)
Authorized Representative of
Bill Phillips dba Scrub-A-Dubb Barrel Company

OWNER

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.

