

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1265-WQ-E **TCEQ ID:** RN102900768 **CASE NO.:** 36433

RESPONDENT NAME: Defense Energy Support Center and the United States Department of the Army

| | | |
|--|---|--|
| ORDER TYPE: | | |
| <input type="checkbox"/> 1660 AGREED ORDER | <input checked="" 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 checked="" type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: Robert Gray Army Airfield Fueling Station, located at Building 4219, 77th and Warehouse Avenue, Fort Hood, Bell County</p> <p>TYPE OF OPERATION: Base fueling station</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 Respondents has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 21, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Danielle Porras, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2602; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Kim J. Huntley, Director, Defense Energy Support Center, 8725 John J. Kingman Road, Fort Belvoir, Virginia 22060 Colonel William V. Hill III, Fort Hood Garrison Commander, United States Department of the Army, Building 4219, 77th and Warehouse Avenue, Fort Hood, Texas 76544 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

DOCKET NO.: 2008-1265-WQ-E

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: May 28, 2008</p> <p>Date of NOV/NOE Relating to this Case: July 23, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to prevent an unauthorized discharge of waste into or adjacent to water in the state. Specifically, approximately 9,812 gallons of JP-8 jet fuel were released from the Facility onto land and into Reese Creek resulting in a fishkill [TEX. WATER CODE § 26.121(a)(1)].</p> | <p>Total Assessed: \$30,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$0</p> <p>The Respondents have made a claim of sovereign immunity from penalties imposed by violations of the Texas Water Code. The violations required the TCEQ to expend capital and resources and incur costs in the administration of its regulatory program. The Respondents will be required to pay \$2,444 for reasonable service charges.</p> <p>CN600126262 Site Compliance History Classification <input 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>CN603389925 Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input 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>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondents took prompt action to contain the release by deploying spill booms on May 28, 2008 and then vacuuming and properly disposing of the contaminants on May 29 and 30, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondents to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement procedures to prevent future unauthorized discharges of waste at the Facility;</p> <p>b. Within 60 days after the effective date of this Agreed Order, pay reasonable service charges in the amount of Two Thousand Four Hundred Forty-Four Dollars (\$2,444);</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit an Affected Property Assessment Report to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program which may include: plans, reports, and notices under Subchapter E; financial assurance; and Institutional Controls under Subchapter F; and</p> <p>d. Within 105 days after the effective date of this Agreed Order, submit written certification and detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a through c.</p> |

Additional ID No(s): N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 4-Aug-2008 | Screening | 21-Aug-2008 | EPA Due | |
| | PCW | 24-Aug-2009 | | | | |

| | | | |
|--|--|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Defense Energy Support Center and the United States Department of the Army | | |
| Reg. Ent. Ref. No. | RN102900768 | | |
| Facility/Site Region | 9-Waco | Major/Minor Source | Major |

| | | | |
|---------------------------------|----------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 36433 | No. of Violations | 1 |
| Docket No. | 2008-1265-WQ-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Danielle Porras |
| | | 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

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 Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

| | | |
|----------------------------|----------|-----------------------------------|
| Total EB Amounts | \$1,316 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$21,808 | |

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

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 21-Aug-2008

Docket No. 2008-1265-WQ-E

PCW

Respondent Defense Energy Support Center and the United States D

Policy Revision 2 (September 2002)

Case ID No. 36433

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102900768

Media [Statute] Water Quality

Enf. Coordinator Danielle Porras

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 judgements or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

There are not any previous NOVs or orders during the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

| | | | | | |
|--|--|---|---|--|--------------|
| Screening Date 21-Aug-2008 | Docket No. 2008-1265-WQ-E | PCW | | | |
| Respondent Defense Energy Support Center and the United States Department | | <small>Policy Revision 2 (September 2002)</small> | | | |
| Case ID No. 36433 | | <small>PCW Revision June 12, 2008</small> | | | |
| Reg. Ent. Reference No. RN102900768 | | | | | |
| Media [Statute] Water Quality | | | | | |
| Enf. Coordinator Danielle Porras | | | | | |
| Violation Number | 1 | | | | |
| Rule Cite(s) | Tex. Water Code § 26.121(a) | | | | |
| Violation Description | Failed to prevent an unauthorized discharge into or adjacent to water in the state. Specifically, approximately 9,812 gallons of JP-8 jet fuel were released from the Facility onto land and into Reese Creek resulting in a fishkill. | | | | |
| Base Penalty | | \$10,000 | | | |
| >> Environmental, Property and Human Health Matrix | | | | | |
| OR | Harm | | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | x | | | |
| Potential | | | | | |
| | | Percent | 100% | | |
| >> Programmatic Matrix | | | | | |
| Falsification | | | Major | Moderate | Minor |
| | | | | | |
| | | Percent | 0% | | |
| Matrix Notes | Human health or the environment has been exposed to pollutants which exceed protective levels. | | | | |
| Adjustment | | | | | \$0 |
| | | | | | \$10,000 |
| Violation Events | | | | | |
| Number of Violation Events | | 3 | | Number of violation days | |
| | | 3 | | | |
| <small>mark only one with an x</small> | daily | x | | Violation Base Penalty \$30,000 | |
| | monthly | | | | |
| | quarterly | | | | |
| | semiannual | | | | |
| | annual | | | | |
| | single event | | | | |
| Three daily events are recommended based on the May 28, 2008 spill date to the May 30, 2008 date of the spilled fuel vacuum recovery completion. | | | | | |
| Good Faith Efforts to Comply | | | 0.0% Reduction | | \$0 |
| | | | <small>Before NOV NOV to EDRP/Settlement Offer</small> | | |
| Extraordinary | | | | | |
| Ordinary | | | | | |
| N/A | x | | <small>(mark with x)</small> | | |
| Notes | The Respondent does not meet the good faith criteria for this violation. | | | | |
| Violation Subtotal | | | | | \$30,000 |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | | |
| Estimated EB Amount | | \$1,316 | | Violation Final Penalty Total | |
| | | | | \$30,000 | |
| This violation Final Assessed Penalty (adjusted for limits) | | | | | \$30,000 |

Economic Benefit Worksheet

Respondent Defense Energy Support Center and the United States Department of the Army

Case ID No. 36433

Reg. Ent. Reference No. RN102900768

Media Water Quality

Violation No. 1

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

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

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|-------------|------|---------|-----|---------|
| Equipment | \$6,808 | 28-May-2008 | 30-May-2008 | 0.01 | \$0 | \$2 | \$3 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | \$15,000 | 28-May-2008 | 26-Feb-2010 | 1.75 | \$1,313 | n/a | \$1,313 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs
 Estimated costs to replace a fuel gasket, clean up spill, and to conduct an Affected Property Assessment Report ("APAR"). The Date Required is the investigation date and the Final Dates are the date of compliance for the replacement and clean up of the spill and the estimated date of compliance to conduct an APAR.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$21,808

TOTAL

\$1,316

Compliance History

Customer/Respondent/Owner-Operator: CN603389925 DEFENSE ENERGY SUPPORT CENTER Classification: Rating:
Regulated Entity: RN102900768 ROBERT GRAY ARMY AIRFIELD FUELING STATION Classification: Site Rating:
ID Number(s):
Location: Building 4219 77th and Warehouse Avenue, Fort Hood, Bell County, Texas
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: September 10, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 10, 2003 to September 10, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Danielle Porras Phone: (512) 239-2602

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
- 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

Compliance History

Customer/Respondent/Owner-Operator: CN600126262 US Department of the Army Classification: AVERAGE Rating: 2.26
Regulated Entity: RN102900768 ROBERT GRAY ARMY AIRFIELD Classification: Site Rating:
FUELING STATION

ID Number(s):

Location: Building 4219 77th and Warehouse Avenue, Fort Hood, Bell
County, Texas

TCEQ Region: REGION 09 - WACO

Date Compliance History September 10, 2008

Agency Decision Requiring Compliance Enforcement

Compliance Period: September 10, 2003 to September 10, 2008

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

Name: Danielle Porras Phone: (512) 239-2602

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 judgments, 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
 - 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 | § | BEFORE THE |
| ENFORCEMENT ACTION | § | |
| CONCERNING | § | |
| DEFENSE ENERGY SUPPORT CENTER | § | TEXAS COMMISSION ON |
| AND THE UNITED STATES | § | |
| DEPARTMENT OF THE ARMY | § | |
| RN102900768 | § | ENVIRONMENTAL QUALITY |

**AGREED ORDER
DOCKET NO. 2008-1265-WQ-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Defense Energy Support Center and the United States Department of the Army (“the Respondents”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this agreement to the Commission.

The Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondents.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Defense Energy Support Center operates and the United States Department of the Army owns a base fueling station at Building 4219, 77th and Warehouse Avenue in Fort Hood, Bell County, Texas (the "Facility").
2. The Respondents have discharged waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on May 28, 2008, TCEQ staff documented that the Respondents failed to prevent an unauthorized discharge into or adjacent to water in the state. Specifically, approximately 9,812 gallons of JP-8 jet fuel were released from the Facility onto land and into Reese Creek resulting in a fishkill.
4. The Respondents received notice of the violations on July 28, 2008.
5. The Executive Director recognizes that the Respondents took prompt action to contain the release by deploying spill booms on May 28, 2008 and then vacuuming and properly disposing of the contaminants on May 29 and 30, 2008.

II. CONCLUSIONS OF LAW

1. The Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondents failed to prevent an unauthorized discharge of waste into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).
3. Pursuant to TEX. WATER CODE § 5.233, the Commission has the authority to receive payment of reasonable service charges to enforce compliance with TEX. WATER CODE § 26.121(a)(1) against the Respondents in settlement of violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes. This Agreed Order and the payment of reasonable service charges shall not constitute a waiver of federal sovereign immunity for civil penalties under the Clean Water Act nor shall this Agreed Order constitute an admission by the Respondents that such a waiver of federal sovereign immunity exists.
4. The violations required the TCEQ to expend capital and resources and incur costs in the administration of its regulatory program. Specifically, the TCEQ has documented Two Thousand Four Hundred Forty-Four Dollars (\$2,444) of costs. The TCEQ agrees to accept Two Thousand Four Hundred Forty-Four Dollars (\$2,444) in compromise and satisfaction of potential claims for reimbursement for reasonable service charges or administrative costs relating to the violations herein that may exceed Two Thousand Four Hundred Forty-Four Dollars (\$2,444).

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Within 60 days after the effective date of this Agreed Order, the Respondents shall pay reasonable service charges in the amount of Two Thousand Four Hundred Forty-Four Dollars (\$2,444) as set forth in Section II, Paragraphs 3 and 4 above, for violations of TCEQ rules and state statutes. The payment of these reasonable service charges and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Payment shall be made payable to "TCEQ" and shall be sent with the notation "Re: Defense Energy Support Center and the United States Department of the Army, Docket No. 2008-1265-WQ-E" to:

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

2. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. The Respondents shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement procedures to prevent future unauthorized discharges of waste at the Facility;
 - b. Within 90 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, submit the report to:

Environmental Cleanup Section
Remediation Division MC 137 or 221
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 105 days after the effective date of this Agreed Order, submit written certification and detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a and 3.b. 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

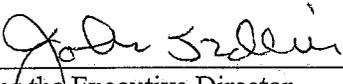
4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondents fail to comply with 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 Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become 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 the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondents if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.

9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents 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.
10. 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.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 9/3/2009

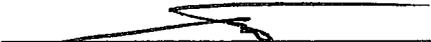
I, the undersigned, have read and understand the attached Agreed Order in the matter of Defense Energy Support Center. I am authorized to agree to the attached Agreed Order on behalf of Defense Energy Support Center, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the service charge, is materially relying on such representation.

I understand that by entering into this Agreed Order, Defense Energy Support Center waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

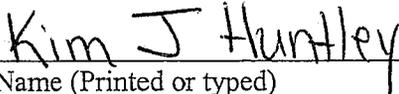
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement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

Date JUN 18 2009



Name (Printed or typed)
Authorized Representative of
Defense Energy Support Center

Director
Title

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szubin
For the Executive Director

9/3/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the United States Department of the Army. I am authorized to agree to the attached Agreed Order on behalf of the United States Department of the Army, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the service charge, is materially relying on such representation.

I understand that by entering into this Agreed Order, the United States Department of the Army waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

William V. Hill III
Signature
William V. Hill III
Ft Hood Garrison Commander
Name (Printed or typed)
Authorized Representative of
The United States Department of the Army

18 Jun 09
Date
Colonel, Commander USA6 FH
Title

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

