

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1787-IWD-E TCEQ ID: RN100211143 CASE NO.: 36841

RESPONDENT NAME: CLEMSA LUMBER 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 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: Pollok Sawmill - Clemsa Lumber, located approximately one mile south of the intersection of United States Highway 69 and Sate Highway 7 on United States Highway 69, Pollok, Angelina County</p> <p>TYPE OF OPERATION: Sawmill with a wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 11, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Leon Ray, General Manager, CLEMSA LUMBER COMPANY, P.O. Box 9, Pollock, Texas 75969 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 7, 2008</p> <p>Date of NOV/NOE Relating to this Case: October 27, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for total aluminum [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004234000, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$1,290</p> <p>Total Deferred: \$258 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,032</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that by January 31, 2009, the Respondent changed their manufacturing processes and installed a wastewater collection and storage system, which eliminated their need to discharge effluent.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 30 days after the effective date of this Agreed Order, submit written certification documenting the cancellation of TPDES Permit No. WQ0004234000. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision.</p>

Additional ID No(s): WQ0004234000



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-Nov-2008	Screening	14-Nov-2008	EPA Due	
	PCW	27-Jan-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	CLEMSA LUMBER COMPANY		
Reg. Ent. Ref. No.	RN100211143		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36841	No. of Violations	1
Docket No.	2008-1787-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 1
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$1,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 29.0% Enhancement Subtotals 2, 3, & 7 \$290

Notes: The penalty is enhanced due to five self-reported monthly effluent violations and two NOV's with violations unrelated to those cited in this action.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$3,149
 Approx. Cost of Compliance \$20,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$1,290

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$1,290

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$1,290

DEFERRAL 20.0% Reduction Adjustment -\$258

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY \$1,032

Screening Date 14-Nov-2008

Docket No. 2008-1787-IWD-E

PCW

Respondent CLEMSA LUMBER COMPANY

Policy Revision 2 (September 2002)

Case ID No. 36841

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100211143

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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)	5	25%
	Other written NOVs	2	4%
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The penalty is enhanced due to five self-reported monthly effluent violations and two NOV's with violations unrelated to those cited in this action.

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

Screening Date 14-Nov-2008	Docket No. 2008-1787-IWD-E	PCW
Respondent CLEMSA LUMBER COMPANY	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36841	<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN100211143		
Media [Statute] Water Quality		
Enf. Coordinator Steve Villatoro		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0004234000, Effluent Limitations and Monitoring Requirements No. 1	
Violation Description	Failed to comply with permit effluent limits, as documented during a record review conducted on October 7, 2008 and shown in the attached table.	
Base Penalty		<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix		
	Harm	
	Release Major Moderate Minor	
OR	Actual	<input type="text" value="X"/>
20000	Potential	
Percent		<input type="text" value="10%"/>
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
		<input type="text" value="0%"/>
Matrix Notes	A site specific model was used to evaluate aluminum to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.	
Adjustment		<input type="text" value="\$9,000"/>
		<input type="text" value="\$1,000"/>
Violation Events		
Number of Violation Events	<input type="text" value="1"/>	Number of violation days <input type="text" value="61"/>
<small>mark only one with an x</small>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="X"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
Violation Base Penalty		<input type="text" value="\$1,000"/>
One quarterly event is recommended.		
Good Faith Efforts to Comply		
0.0% Reduction		<input type="text" value="\$0"/>
<small>Before NOV NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="X"/>	<small>(mark with x)</small>
Notes	The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal		<input type="text" value="\$1,000"/>
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$3,149"/>	Violation Final Penalty Total <input type="text" value="\$1,290"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$1,290"/>

Economic Benefit Worksheet

Respondent CLEMSA LUMBER COMPANY
Case ID No. 36841
Reg. Ent. Reference No. RN100211143
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$20,000	31-Mar-2008	30-Jun-2010	2.25	\$150	\$2,999	\$3,149
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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated costs to contract with an engineer to identify the cause for non-compliance and to implement corrective actions to return to compliance. Date required is the first date of non-compliance. Final date is the expected date of compliance.

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

\$20,000	\$3,149
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EFFLUENT VIOLATION TABLE		
CLEMSA LUMBER COMPANY		
TPDES Permit No. WQ0004234000		
Docket No. 2008-1787-IWD-E		
Months	Total Aluminum Daily Avg. Conc.	Total Aluminum Daily Max. Conc.
	Limit = 0.835 mg/L	Limit = 1.766 mg/L
3/31/2008	1.66	3.191
5/31/2008	1.84	1.854

Max. = Maximum avg. = average
mg/L = milligrams per liter
conc. = concentration

Compliance History Report

Customer/Respondent/Owner-Operator: CN600125231 CLEMSA LUMBER COMPANY Classification: AVERAGE Rating: 0.19
 Regulated Entity: RN100211143 POLLOK SAWMILL - CLEMSA LUMBER Classification: AVERAGE Site Rating: 0.19

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	AC0051B
	AIR OPERATING PERMITS	PERMIT	2358
	WASTEWATER	PERMIT	WQ0004234000
	WASTEWATER	PERMIT	TPDES0123064
	WASTEWATER	PERMIT	TX0123064
	AIR NEW SOURCE PERMITS	PERMIT	19781
	AIR NEW SOURCE PERMITS	PERMIT	44459
	AIR NEW SOURCE PERMITS	PERMIT	45957
	AIR NEW SOURCE PERMITS	PERMIT	46697
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	AC0051B
	AIR NEW SOURCE PERMITS	REGISTRATION	54532
	AIR NEW SOURCE PERMITS	AFS NUM	4800500023
	STORMWATER	PERMIT	TXR05N326

Location: approximately one mile south of the intersection of United States Highway 69 and State Highway 7 on United States Highway 69 Pollok, Angelina County, Texas Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT
 Date Compliance History Prepared: November 17, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 17, 2003 to November 17, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Steve Villatoro Phone: 512-239-4930

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.)

1	11/24/2003	(328506)
2	12/15/2003	(328507)
3	01/20/2004	(328508)
4	02/23/2004	(328497)
5	03/19/2004	(328498)
6	04/19/2004	(328499)
7	05/24/2004	(367706)
8	06/17/2004	(367707)
9	07/19/2004	(367708)
10	08/16/2004	(367709)
11	08/17/2004	(277508)
12	09/22/2004	(367710)
13	10/22/2004	(367711)
14	11/22/2004	(390423)
15	12/20/2004	(390424)
16	12/27/2004	(342088)
17	01/21/2005	(390425)
18	02/17/2005	(390422)

19	04/21/2005	(427906)
20	05/20/2005	(427907)
21	06/21/2005	(427908)
22	07/22/2005	(447873)
23	08/22/2005	(447874)
24	09/22/2005	(447875)
25	10/24/2005	(493251)
26	11/14/2005	(493252)
27	12/22/2005	(493253)
28	12/29/2005	(435496)
29	01/20/2006	(493254)
30	02/21/2006	(493249)
31	03/20/2006	(493250)
32	04/24/2006	(506684)
33	05/19/2006	(506685)
34	06/16/2006	(506686)
35	07/21/2006	(528827)
36	07/26/2006	(488521)
37	08/24/2006	(528828)
38	09/22/2006	(528829)
39	10/20/2006	(552012)
40	11/01/2006	(513731)
41	11/16/2006	(552013)
42	12/27/2006	(552014)
43	02/20/2007	(589407)
44	03/22/2007	(589408)
45	04/23/2007	(589409)
46	05/21/2007	(589410)
47	06/22/2007	(589411)
48	07/16/2007	(605850)
49	08/20/2007	(605851)
50	09/24/2007	(605852)
51	10/15/2007	(632579)
52	11/02/2007	(597291)
53	11/19/2007	(632580)
54	12/27/2007	(632581)
55	01/21/2008	(677564)
56	02/22/2008	(677563)
57	03/21/2008	(696339)
58	04/22/2008	(696340)
59	05/19/2008	(696341)
60	07/18/2008	(696342)
61	09/03/2008	(686485)
62	09/03/2008	(700980)
63	10/28/2008	(704849)

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

Date: 08/31/2005 (447875)

Self Report? YES Classification Moderate

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

TWC Chapter 26 26.121(a)

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

Date: 03/31/2006 (506684)

Self Report? YES Classification Moderate

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

TWC Chapter 26 26.121(a)

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

Date: 10/31/2006 (552013)

Self Report? YES Classification Moderate

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

TWC Chapter 26 26.121(a)

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

Date: 03/31/2008 (696340)

Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 05/31/2008 (696340)

Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 09/03/2008 (686485)

Self Report? NO Classification Moderate

Rqmt Prov: PERMIT TXR05N326 Part III Sec A(3)(b)

Description: Failure by the Pollock Sawmill - Clemsa Lumber (CL) to conduct an evaluation of potential non-storm water sources.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Rqmt Prov: PERMIT TXR05N326 Part III Sec A(5)(d)

Description: Failure by the Pollock Sawmill - Clemsa Lumber (CL) to establish a maintenance program for an oil/water separator.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Rqmt Prov: PERMIT TXR05N326 Part IV Sec A (8)

Description: Failure by the Pollock Sawmill - Clemsa Lumber to conduct benchmark monitoring.

Date: 09/03/2008 (700980)

Self Report? NO Classification Minor

Rqmt Prov: PERMIT OpR

Description: Failure by Clemsa Lumber Company to properly operate and maintain wastewater ponds.

Self Report? NO Classification Minor

Rqmt Prov: PERMIT OR

Description: Failure by Clemsa Lumber Company to submit progress reports.

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
CLEMSA LUMBER COMPANY
RN100211143

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1787-IWD-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 CLEMSA LUMBER COMPANY ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a sawmill with a wastewater treatment facility located approximately one mile south of the intersection of United States Highway 69 and State Highway 7 on United States Highway 69 in Pollok, Angelina County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 1, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Two Hundred Ninety Dollars (\$1,290) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid One Thousand Thirty-Two Dollars (\$1,032) of the administrative penalty and Two Hundred Fifty-Eight Dollars (\$258) is deferred contingent upon the Respondent's 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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that by January 31, 2009, the Respondent changed their manufacturing processes and installed a wastewater collection and storage system, which eliminated their need to discharge effluent.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004234000, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 7, 2008 and shown in the following table:

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:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Siddle

For the Executive Director

4/28/2009

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.

Leon Ray

Signature

3/12/09

Date

Leon Ray

Name (Printed or typed)
Authorized Representative of
CLEMSA LUMBER COMPANY

Gen. Mgr.

Title

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