

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0194-IWD-E **TCEQ ID:** RN101609436 **CASE NO.:** 37148

RESPONDENT NAME: Martin Operating Partnership L.P.

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: Martin Operating Neches Terminal, located on the west bank of the Neches River, approximately three miles east of the intersection of United States Highway 90 and State Highway 380, and southeast of Beaumont, Jefferson County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 29, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Matt A. Yost, Vice President, Martin Operating Partnership L.P., P.O. Box 6567, Beaumont, Texas 77725 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: September 5, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 6, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for ammonia-nitrogen and pH [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001202000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2 at Outfalls 003 and 008, No. 2 at Outfall 006, and No. 1 at Outfall 005].</p>	<p>Total Assessed: \$20,400</p> <p>Total Deferred: \$4,080 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$8,160</p> <p>Total Paid to General Revenue: \$8,160</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 December 10, 2008, the Respondent repaired and sealed the containment pad, repaired cracks and holes in the ditch system for the priller pad, and began construction on the expansion of the priller pad to prevent contaminated wastewater from entering the outfalls.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0001202000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation to demonstrate compliance.</p>

Additional ID No(s): WQ0001202000

Attachment A
Docket Number: 2009-0194-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Martin Operating Partnership L.P.
Payable Penalty Amount: Sixteen Thousand Three Hundred Twenty Dollars (\$16,320)
SEP Amount: Eight Thousand One Hundred Sixty Dollars (\$8,160)
Type of SEP: Pre-approved
Third-Party Recipient: Jefferson County-Pleasure Island Stabilization
Location of SEP: Jefferson County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to stabilize the shoreline by placing vinyl sheets of piling and erosion control blankets along a stretch of waterway along Pleasure Island. Continued erosion from wave action caused by passing ships is compromising the integrity of the shoreline along Pleasure Island. The embankment will be reclaimed and sloped to stabilize approximately 5 miles of shoreline.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by correcting erosion problems and will result in less silt and turbidity in the water. Improving the waterway will promote bird and aquatic life, and make the area safer for recreational uses.

C. Minimum Expenditure

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

Martin Operating Partnership L.P.
Agreed Order – Attachment A

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

The Honorable Carl R. Griffith, Jr.
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	9-Feb-2009	Screening	10-Feb-2009	EPA Due	
	PCW	10-Feb-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Martin Operating Partnership L.P.		
Reg. Ent. Ref. No.	RN101609436		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37148	No. of Violations	1
Docket No.	2009-0194-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Merrilee Hupp
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	128.0% Enhancement	Subtotals 2, 3, & 7 \$10,240

Notes: The Respondent self-reported 24 effluent violations, received one NOV with same or similar violations, received three NOVs without same or similar violations, and submitted one notice of intent and one disclosure of violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	50.0% Enhancement*	Subtotal 6	\$4,000
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Total EB Amounts \$249,824
 Approx. Cost of Compliance \$1,546,491
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$22,240
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-8.3%	Adjustment	-\$1,840
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction in the penalty so that monthly self-reported effluent violations do not overly-impact the penalty amount and to prevent double enhancement of the penalty for violations that were self-reported.

Final Penalty Amount	\$20,400
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,400
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DEFERRAL	20.0% Reduction	Adjustment	-\$4,080
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$16,320
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Screening Date 10-Feb-2009

Docket No. 2009-0194-IWD-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 2 (September 2002)

Case ID No. 37148

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609436

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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)	25	125%
	Other written NOVs	3	6%
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)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
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) 128%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported 24 effluent violations, received one NOV with same or similar violations, received three NOVs without same or similar violations, and submitted one notice of intent and one disclosure of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 128%

Screening Date 10-Feb-2009 **Docket No.** 2009-0194-IWD-E **PCW**
Respondent Martin Operating Partnership L.P. *Policy Revision 2 (September 2002)*
Case ID No. 37148 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101609436
Media [Statute] Water Quality
Enf. Coordinator Merrilee Hupp
Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001202000, Effluent Limitations and Monitoring Requirements No. 1 at Outfall 005, No. 2 at Outfall 006, and Nos. 1 and 2 at Outfalls 003 and 008
Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on September 5, 2008, and shown in the attached effluent table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation. Flows at Outfalls 003, 005, and 006 were intermittent, and flows at Outfall 008 at the time of the pH excursions were below permitted limits.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 8 Number of violation days 273

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$8,000

Eight quarterly events are recommended (three each at Outfalls 003 and 008 and one each at Outfalls 005 and 006).

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$8,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$249,824 Violation Final Penalty Total \$20,400

This violation Final Assessed Penalty (adjusted for limits) \$20,400

Economic Benefit Worksheet

Respondent Martin Operating Partnership L.P.
Case ID No. 37148
Reg. Ent. Reference No. RN101609436
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
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No commas or \$

Delayed Costs

Equipment	\$1,500,000	31-Jul-2007	30-Nov-2009	2.34	\$11,685	\$233,699	\$245,384
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$46,491	31-Jul-2007	10-Dec-2008	1.36	\$211	\$4,229	\$4,440
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 include the repair and sealing of the containment pad (\$46,491) and the repair of cracks and holes in the ditch system for the priller pad and expansion of the priller pad (\$1,500,000) to prevent contaminated wastewater from reaching the outfalls. Date required is the date of the first month of violation and the final date is the completion date of containment pad work and the expected completion date for the priller pad work also necessary to achieve compliance with effluent limitations.

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

\$1,546,491

TOTAL

\$249,824

Martin Operating Partnership L.P.
 RN101609436
 Docket No. 2009-0194-IWD-E

Effluent Table

Outfall 003	DAILY MAX. NH ₃ -N LOADING (lbs/day) LIMIT = 50	DAILY MAX. NH ₃ -N CONC. (mg/L) LIMIT = 15	pH MIN. MIN. = 6.0 (s.u.)	pH MAX. MAX. = 9.0 (s.u.)
11/30/07	c	-----	3.0	c
01/31/08	80.4	-----	c	c
02/29/08	88.9	-----	c	c
04/30/08	c	-----	c	10.2
05/31/08	117.1	-----	c	9.7
Outfall 005				
01/31/08	205.1	-----	c	c
03/31/08	53.9	-----	c	c
Outfall 006				
01/31/08	c	-----	c	9.3
Outfall 008				
07/31/07	N/A	c	4.0	c
09/30/07	N/A	c	3.6	c
02/29/08	N/A	c	c	9.7
03/31/08	N/A	17.0	c	c
04/30/08	N/A	20.1	c	c
05/31/08	N/A	18.2	c	c
06/30/08	N/A	18.7	c	c

NH₃-N : ammonia-nitrogen mg/L : milligrams per liter s.u. : standard units
 Lbs/day : pounds per day min. : minimum max. : maximum
 C : compliant ----- : Report only N/A : not applicable

Compliance History Report

Customer/Respondent/Owner-Operator: CN601535925 Martin Operating Partnership L. P. Classification: AVERAGE Rating: 2.45
Regulated Entity: RN101609436 MARTIN OPERATING NECHES Classification: AVERAGE Site Rating: 1.14
Terminal
ID Number(s): VOLUNTARY CLEANUP PROGRAM ID NUMBER 785
WASTEWATER PERMIT WQ0001202000
WASTEWATER PERMIT TPDES0003662
WASTEWATER PERMIT TX0003662
INDUSTRIAL AND HAZARDOUS WASTE
GENERATION
EPA ID TXD010806347
INDUSTRIAL AND HAZARDOUS WASTE
GENERATION
SOLID WASTE REGISTRATION #
(SWR)
31018
AIR NEW SOURCE PERMITS PERMIT 3846
AIR NEW SOURCE PERMITS PERMIT 4626
AIR NEW SOURCE PERMITS PERMIT 10562A
AIR NEW SOURCE PERMITS PERMIT 3846A
AIR NEW SOURCE PERMITS PERMIT 20692
AIR NEW SOURCE PERMITS ACCOUNT NUMBER JE0092J
AIR NEW SOURCE PERMITS AFS NUM 4824500007
AIR NEW SOURCE PERMITS PERMIT 28899
AIR NEW SOURCE PERMITS REGISTRATION 83048
AIR NEW SOURCE PERMITS REGISTRATION 85315
Location: on W. bank of Neches River, approx. 3 mi. E. of intersec. of U.S. Hwy. 90
& State Hwy. 380, SE. of Beaumont, Jefferson Co., Tx.
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: February 10, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 10, 2004 to February 10, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Merrilee G. Hupp Phone: 239 - 4490

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 :

6. Rating Date: 9/1/2008 Repeat Violator: NO
- 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 02/20/2004 (419529)
- 2 02/23/2004 (262331)
- 3 03/12/2004 (419533)
- 4 04/19/2004 (419534)
- 5 05/21/2004 (419537)
- 6 06/21/2004 (419540)
- 7 07/09/2004 (419543)
- 8 08/11/2004 (419546)
- 9 08/17/2004 (280443)
- 10 09/13/2004 (419548)
- 11 10/08/2004 (419550)
- 12 11/15/2004 (334944)
- 13 11/15/2004 (419552)

14 12/10/2004 (419555)
15 01/07/2005 (419557)
16 02/11/2005 (419530)
17 03/07/2005 (419532)
18 04/07/2005 (419535)
19 05/06/2005 (419538)
20 06/06/2005 (419541)
21 07/08/2005 (419544)
22 08/05/2005 (440685)
23 09/09/2005 (440686)
24 10/03/2005 (468190)
25 11/07/2005 (468191)
26 12/08/2005 (468192)
27 01/09/2006 (468193)
28 02/09/2006 (468188)
29 03/09/2006 (468189)
30 04/06/2006 (498036)
31 04/28/2006 (458164)
32 05/15/2006 (498037)
33 06/16/2006 (498038)
34 07/10/2006 (520049)
35 07/24/2006 (481443)
36 08/21/2006 (520050)
37 09/08/2006 (520051)
38 10/06/2006 (544301)
39 11/16/2006 (544302)
40 12/14/2006 (544303)
41 01/25/2007 (544304)
42 02/08/2007 (574970)
43 03/08/2007 (574971)
44 04/26/2007 (574972)
45 05/11/2007 (574973)
46 06/06/2007 (574974)
47 08/06/2007 (601504)
48 09/04/2007 (601503)
49 09/10/2007 (601505)
50 10/11/2007 (619413)
51 10/11/2007 (619414)
52 11/12/2007 (619415)
53 12/06/2007 (619416)
54 01/15/2008 (619417)
55 02/04/2008 (671919)
56 03/06/2008 (671920)
57 04/08/2008 (671921)
58 05/08/2008 (689842)
59 06/09/2008 (689843)
60 07/07/2008 (689844)
61 08/11/2008 (710602)
62 09/03/2008 (710603)
63 10/06/2008 (710604)
64 10/17/2008 (701280)
65 11/04/2008 (710605)
66 11/18/2008 (689235)
67 02/03/2009 (722987)

68 02/04/2009 (725841)

69 02/06/2009 (702212)

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

Date: 08/18/2004 (280443)

Self Report? NO Classification: Moderate

Citation: 28899 PERMIT

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain adequate records on the anhydrous ammonia storage tanks.

Self Report? NO Classification: Moderate

Citation: 28899 PERMIT

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to stay below the maximum pumping rate during the transfer of anhydrous ammonia.

Self Report? NO Classification: Minor

Citation: 28899 PERMIT

30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain the tank trucks annual leak-tight certifications at the terminal site.

Date: 06/30/2005 (419544) CN601535925

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: 07/31/2005 (440685) CN601535925

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: 10/31/2005 (468191) CN601535925

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: 04/30/2006 (498037) CN601535925

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: 05/01/2006 (458164)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)

30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

5C THC Chapter 382, SubChapter A 382.085(b)

Permit 28899, General Condition 8 PERMIT

Description: Failure to maintain an emission rate below the allowable emission limit.

Date: 05/31/2006 (498038) CN601535925
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: 07/31/2006 (520050) CN601535925
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: 08/31/2006 (520051) CN601535925
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: 09/30/2006 (544301) CN601535925
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 (544302) CN601535925
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: 11/30/2006 (544303) CN601535925
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: 12/31/2006 (544304) CN601535925
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: 01/31/2007 (574970) CN601535925
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: 07/31/2007 (601504) CN601535925
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: 09/30/2007 (619414) CN601535925
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: 11/30/2007 (619416) CN601535925
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: 01/31/2008 (671919) CN601535925
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: 02/29/2008 (671920) CN601535925
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: 03/31/2008 (671921) CN601535925
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: 04/30/2008 (689842) CN601535925
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 (689843) CN601535925
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: 06/30/2008 (689844) CN601535925
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: 07/31/2008 (710602) CN601535925
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: 08/31/2008 (710603) CN601535925
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: 10/17/2008 (701280) CN601535925
Self Report? NO Classification: Moderate
Citation: EL&MR 1 PERMIT
Description: Failure by Martin Operating Partnership LP to discharge effluent in compliance with permitted limitations.
Self Report? NO Classification: Moderate
Citation: EL&MR2 PERMIT
Description: Failure by Martin Operating Partnership LP to discharge effluent in compliance with permitted limitations.
Self Report? NO Classification: Moderate
Citation: M&RR1 PERMIT
OT, 24- Acute PERMIT
Description: Failure by Martin Operating Partnership LP to submit accurate and complete Discharge Monitoring Reports.
Self Report? NO Classification: Moderate
Citation: OpR 11 PERMIT
Description: Failure by Martin Operating Partnership LP to clean-up spilled sulfur at the loading conveyor to Dock 2.
Self Report? NO Classification: Moderate
Citation: EL&MR 2 PERMIT
Description: Failure by Martin Operating Partnership LP to discharge effluent compliant with pH minimum limitations at Outfall 007

Date: 10/31/2008 (710605) CN601535925
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: 11/18/2008 (689235)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(D)
5C THSC Chapter 382 382.085(b)
Description: Failure to report emissions as documented during an emissions event.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
5C THSC Chapter 382 382.085(b)
Description: Failure to maintain an emission rate below the allowable emission limits.

F. Environmental audits.

Notice of Intent Date: 06/30/2006 (489940)

Disclosure Date: 03/19/2007

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 28899, SC 2

Description: Failure to maintain records of monthly emergency and catastrophic relief valve inspections for a period of two years. Specifically, records could not be located for August and December 2005.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 28899, SC 8b3

Description: Failure to maintain records of the certification testing and repairs to the tank truck.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 28899, SC 9

Description: Failure to limit the sulfur pill production to 2,000 metric tons per day. Specifically, the facility exceeded the limit 15 days between July 23, 2006 and September 29, 2006.

Viol. Classification: Moderate

Rqmt Prov: PERMIT 28899, SC10

Description: Failure to limit the maximum production pump rate to 700 long tons per hour for the molten sulfur storage tank. Specifically, for fifteen days between July 23 through September 29, 2006.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 28899, SC 13

Description: Failure to comply with ammonia leak detection monitoring requirements for each ammonia storage tank, loading and unloading stations, and other locations throughout the terminal. Specifically, seven out of eighteen locations were not operable due to apparent damage by Hurricane Rita in September 2005.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 28899, SC 21B

Description: Failure to conduct audio, visual and olfactory checks for ammonia leaks every 4 hours within the operating area.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 28899, SC 21B

Description: Failure to maintain a master component equipment log. Specifically, the log was incomplete and did not contain the pumps, compressors, or the entire list of valves in ammonia service.

Viol. Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(1)

Description: Failure to obtain air authorization for a 26K crude oil tank, and two 44K asphalt tanks.

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
MARTIN OPERATING
PARTNERSHIP L.P.
RN101609436

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0194-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 Martin Operating Partnership L.P. ("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 wastewater treatment facility on the west bank of the Neches River, approximately three miles east of the intersection of United States Highway 90 and State Highway 380, and southeast of Beaumont in Jefferson 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 February 11, 2009.
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 Twenty Thousand Four Hundred Dollars (\$20,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid Eight Thousand One Hundred Sixty Dollars (\$8,160) of the administrative penalty and Four Thousand Eighty Dollars (\$4,080) 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. Eight Thousand One Hundred Sixty Dollars (\$8,160) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 December 10, 2008, the Respondent repaired and sealed the containment pad, repaired cracks and holes in the ditch system for the priller pad, and began construction on the expansion of the priller pad to prevent contaminated wastewater from entering the outfalls.
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 the permitted effluent limitations, 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. WQ0001202000, Effluent Limitations and Monitoring Requirements Nos. 1 and 2 at Outfalls 003 and 008, No. 2 at Outfall 006, and No. 1 at Outfall 005, as documented during a record review conducted on September 5, 2008 and described in the following effluent violation table:

Effluent Violation Table

Outfall 003	DAILY MAX. NH ₃ -N LOADING (lbs/day) LIMIT = 50	DAILY MAX. NH ₃ -N CONC. (mg/L) LIMIT = 15	pH MIN. MIN. = 6.0 (s.u.)	pH MAX. MAX. = 9.0 (s.u.)
11/30/07	c	-----	3.0	c
01/31/08	80.4	-----	c	c
02/29/08	88.9	-----	c	c
04/30/08	c	-----	c	10.2
05/31/08	117.1	-----	c	9.7
Outfall 005				
01/31/08	205.1	-----	c	c
03/31/08	53.9	-----	c	c
Outfall 006				
01/31/08	c	-----	c	9.3
Outfall 008				
07/31/07	N/A	c	4.0	c
09/30/07	N/A	c	3.6	c
02/29/08	N/A	c	c	9.7
03/31/08	N/A	17.0	c	c
04/30/08	N/A	20.1	c	c
05/31/08	N/A	18.2	c	c
06/30/08	N/A	18.7	c	c

NH₃-N : ammonia-nitrogen mg/L : milligrams per liter s.u. : standard units
Lbs/day : pounds per day min. : minimum max. : maximum
c : compliant ----- : report only

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Martin Operating Partnership L.P., Docket No. 2009-0194-IWD-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Eight Thousand One Hundred Sixty Dollars (\$8,160) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0001202000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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

4. 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.
5. 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.

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 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.
7. 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.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. 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 S. Sullivan
For the Executive Director

5/27/2009
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.

Matt A. Vost
Signature

4/29/09
Date

Matt A. Vost
Name (Printed or typed)
Authorized Representative of
Martin Operating Partnership L.P.

Vice President
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.

Attachment A
Docket Number: 2009-0194-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Martin Operating Partnership L.P.
Payable Penalty Amount: Sixteen Thousand Three Hundred Twenty Dollars (\$16,320)
SEP Amount: Eight Thousand One Hundred Sixty Dollars (\$8,160)
Type of SEP: Pre-approved
Third-Party Recipient: Jefferson County-Pleasure Island Stabilization
Location of SEP: Jefferson County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to stabilize the shoreline by placing vinyl sheets of piling and erosion control blankets along a stretch of waterway along Pleasure Island. Continued erosion from wave action caused by passing ships is compromising the integrity of the shoreline along Pleasure Island. The embankment will be reclaimed and sloped to stabilize approximately 5 miles of shoreline.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by correcting erosion problems and will result in less silt and turbidity in the water. Improving the waterway will promote bird and aquatic life, and make the area safer for recreational uses.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

The Honorable Carl R. Griffith, Jr.
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

