

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-1853-WQ-E **TCEQ ID:** RN102947124 **CASE NO.:** 36862**RESPONDENT NAME:** 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: Ft. Hood WW System to WCID Number 1 WWTP, located approximately 100 yards southwest of the intersection of Clear Creek Road and Battalion Avenue, and a manhole located next to lift station 51400 on the Clear Creek Golf Course, Fort Hood, Coryell County</p> <p>TYPE OF OPERATION: Wastewater collection system that includes a 14 inch diameter force main</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 15, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Riki Young, Water Program Manager, United States Department of the Army, Building 1001, Room W 321, Fort Hood, Texas 76544 Mr. Roderick A. Chisolm, Director, Public Works, United States Department of the Army, Building 1001, Room W 321, Fort Hood, Texas 76544 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 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: September 25, 2008</p> <p>Date of NOV/NOE Relating to this Case: November 19, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge of sewage into or adjacent to water in the state. Specifically, between September 21 and 23, 2008, approximately 168,000 gallons of sewage discharged from a broken force main located approximately 100 yards southwest of the intersection of Clear Creek Road and Battalion Boulevard, and from a manhole next to lift station 51400 on Clear Creek Golf Course. The discharge entered an unnamed tributary of Clear Creek, resulting in a fish kill of approximately 100 fish [TEX. WATER CODE § 26.121(a)(1)].</p>	<p>Total Assessed: \$12,750</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: \$855</p> <p>The Respondent has 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 Respondent has paid \$855 for reasonable service charges.</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>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 Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By September 23, 2008, stopped the discharge and replaced approximately 40 inches of the 14" force main; and</p> <p>b. By September 23, 2008, removed solids from the point of the discharge to the creek, removed and disposed of the dead fish, and sprayed the affected area with a disinfectant bleach solution.</p>

Additional ID No(s): N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	24-Nov-2008	Screening	2-Dec-2008	EPA Due	
	PCW	5-Dec-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	United States Department of the Army
Reg. Ent. Ref. No.	RN102947124
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36862	No. of Violations	1
Docket No.	2008-1853-WQ-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Evette Alvarado
		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**

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: Enhancement is recommended based on two previous NOVs for same or similar violations.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

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:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 2-Dec-2008

Docket No. 2008-1853-WQ-E

PCW

Respondent United States Department of the Army

Policy Revision 2 (September 2002)

Case ID No. 36862

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102947124

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

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)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> **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

Enhancement is recommended based on two previous NOV's for same or similar violations.

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

Screening Date 2-Dec-2008	Docket No. 2008-1853-WQ-E	PCW																
Respondent United States Department of the Army		<small>Policy Revision 2 (September 2002)</small>																
Case ID No. 36862		<small>PCW Revision October 30, 2008</small>																
Reg. Ent. Reference No. RN102947124																		
Media [Statute] Water Quality																		
Enf. Coordinator Evette Alvarado																		
Violation Number <input type="text" value="1"/>																		
Rule Cite(s)	Tex. Water Code § 26.121(a)(1)																	
Violation Description	Failed to prevent an unauthorized discharge of sewage into or adjacent to water in the state. Specifically, between September 21 and 23, 2008, approximately 168,000 gallons of sewage discharged from a broken force main located approximately 100 yards southwest of the intersection of Clear Creek Road and Battalion Boulevard, and from a manhole next to lift station 51400 on Clear Creek Golf Course. The discharge entered an unnamed tributary of Clear Creek, resulting in a fish kill of approximately 100 fish.																	
	Base Penalty	<input type="text" value="\$10,000"/>																
>> Environmental, Property and Human Health Matrix																		
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Harm			Release	Major	Moderate	Minor	Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="50%"/>
	Harm																	
Release	Major	Moderate	Minor															
Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>															
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>															
>> Programmatic Matrix																		
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Major	Moderate	Minor	Falsification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0%"/>								
	Major	Moderate	Minor															
Falsification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>															
Matrix Notes	Human health or the environment has been exposed to pollutants which exceed protective levels as a result of this violation.																	
	Adjustment	<input type="text" value="\$5,000"/>																
		<input type="text" value="\$5,000"/>																
Violation Events																		
	Number of Violation Events <input type="text" value="3"/>	Number of violation days <input type="text" value="3"/>																
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> <tr><td style="text-align: center;">weekly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="checkbox"/></td></tr> </table>	daily	<input checked="" type="checkbox"/>	weekly	<input type="checkbox"/>	monthly	<input type="checkbox"/>	quarterly	<input type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input type="checkbox"/>	Violation Base Penalty <input type="text" value="\$15,000"/>		
daily	<input checked="" type="checkbox"/>																	
weekly	<input type="checkbox"/>																	
monthly	<input type="checkbox"/>																	
quarterly	<input type="checkbox"/>																	
semiannual	<input type="checkbox"/>																	
annual	<input type="checkbox"/>																	
single event	<input type="checkbox"/>																	
	Three daily events are recommended.																	
Good Faith Efforts to Comply																		
	<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$3,750"/>																
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td colspan="2" style="text-align: center;"><small>(mark with x)</small></td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A	<small>(mark with x)</small>						
	Before NOV	NOV to EDPRP/Settlement Offer																
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>																
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>																
N/A	<small>(mark with x)</small>																	
Notes	The Respondent returned to compliance on September 23, 2008.																	
	Violation Subtotal	<input type="text" value="\$11,250"/>																
Economic Benefit (EB) for this violation																		
	Estimated EB Amount <input type="text" value="\$1"/>	Violation Final Penalty Total <input type="text" value="\$12,750"/>																
	Statutory Limit Test																	
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$12,750"/>																	

Economic Benefit Worksheet

Respondent United States Department of the Army
Case ID No. 36862
Reg. Ent. Reference No. RN102947124
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	\$3,445	21-Sep-2008	23-Sep-2008	0.01	\$0	\$1	\$1
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	\$500	21-Sep-2008	23-Sep-2008	0.01	\$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

Total cost to repair the damaged force main, to clean and disinfect the affected area, and to dispose of the dead fish. Date required is the date the discharge began. Final date is the date compliance was achieved.

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

\$3,945

TOTAL

\$1

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
UNITED STATES DEPARTMENT OF
THE ARMY
RN102947124

§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1853-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 United States Department of the Army ("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 presented this agreement to the Commission.

The Respondent understands that it has 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 Respondent agrees 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 Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater collection system that includes a 14 inch diameter force main located approximately 100 yards southwest of the intersection of Clear Creek Road and Battalion Avenue, and a manhole located next to lift station 51400 on the Clear Creek Golf Course, on Fort Hood, Coryell County, Texas (the "Facility").

2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on September 25, 2008, TCEQ staff documented a discharge of sewage that occurred from a 14 inch diameter force main break at or near the intersection of Clear Creek Road and Battalion Avenue, and a manhole near lift station 51400 on the Clear Creek Golf Course, between September 21 and September 23, 2008. Approximately 168,000 gallons of sewage was discharged into an unnamed tributary of Clear Creek, killing an estimated 100 fish.
4. The Respondent received notice of the violation on November 24, 2008.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By September 23, 2008, stopped the discharge and replaced approximately 40 inches of the 14" force main; and
 - b. By September 23, 2008, removed solids from the point of the discharge to the creek, removed and disposed of the dead fish, and sprayed the affected area with a disinfectant bleach solution.

II. CONCLUSIONS OF LAW

1. The Respondent is 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 Respondent failed to prevent the unauthorized discharge of sewage 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 Respondent in settlement of violations of the Texas Water 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 Respondent 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 Eight Hundred Fifty-Five Dollars (\$855.00) of costs. The TCEQ agrees to accept Eight Hundred Fifty-Five Dollars (\$855.00) in compromise and satisfaction of potential claims for reimbursement for reasonable service charges or administrative costs relating to the violations herein that may exceed Eight Hundred Fifty-Five Dollars (\$855.00). The Respondent has paid Eight Hundred Fifty-Five Dollars (\$855.00) for reasonable service charges.

III. ORDERING PROVISIONS

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

1. The Respondent shall pay reasonable service charges in the amount of Eight Hundred Fifty-Five Dollars (\$855.00) pursuant to and 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 Respondent's 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: United States Department of the Army, Docket No. 2008-1853-WQ-E" to:

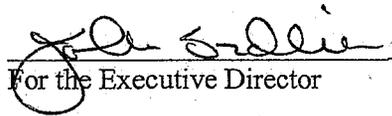
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The 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.
3. 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 Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. 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.
6. 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.
7. 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

5/20/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of United States Department of the Army. I am authorized to agree to the attached Agreed Order on behalf of 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 penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, 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.

Roderick Chisholm
Signature

13 APRIL 2009
Date

Roderick A. Chisholm
Name (Printed or typed)
Authorized Representative of
United States Department of the Army

Director, Public Works
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.