

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1196-PST-E TCEQ ID: RN102852548 CASE NO.: 38060

RESPONDENT NAME: VSNB, LLC dba Lockwood Phillips 66

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 checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Lockwood Phillips 66, 5320 East Freeway, Houston, Harris County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</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 December 28, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Ross Fife, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2541; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Ms. Victoria Boulos, President, VSNB, LLC, 12019 Lismore Lake Drive, Cypress, Texas 77429 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: June 16, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 29, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>Failure to verify proper operation of Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months, or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial system compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$2,557</p> <p>Total Deferred: \$511 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$546 (remaining \$1,500 due in 3 monthly payments of \$500 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input 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 the University of Texas at Arlington, a TCEQ contractor, received documentation verifying that the Respondent successfully conducted the required annual and triennial testing of the Stage II equipment on June 16, 2009.</p>

Additional ID No(s): 57397

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

ICEQ	DATES Assigned	20-Jul-2009		
	PCW	31-Jul-2009	Screening	27-Jul-2009
			EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	VSNB, LLC dba Lockwood Phillips 66		
Reg. Ent. Ref. No.	RN102852548		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38060	No. of Violations	1
Docket No.	2009-1196-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ross Fife
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$2,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>			
Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$125
Notes	Enhancement for one NOV for same or similar violation.		
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	\$625
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
<small>Total EB Amounts \$557</small>		<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance \$466</small>			
SUM OF SUBTOTALS 1-7		Final Subtotal	\$2,000
OTHER FACTORS AS JUSTICE MAY REQUIRE	27.9%	Adjustment	\$557
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.		
			Final Penalty Amount \$2,557
STATUTORY LIMIT ADJUSTMENT			Final Assessed Penalty \$2,557
DEFERRAL	20.0% Reduction	Adjustment	-\$511
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$2,046

Screening Date: 27-Jul-2009

Docket No: 2009-1196-PST-E

PCW

Respondent: VSNB, LLC dba Lockwood Phillips 66

Policy Revision 2 (September 2002)

Case ID No: 38060

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN102852548

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Ross Fife

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)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 5%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV for same or similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 27-Jul-2009	Docket No. 2009-1196-PST-E	PCW														
Respondent VSNB, LLC dba Lockwood Phillips 66	<i>Policy Revision 2 (September 2002)</i>															
Case ID No. 38080	<i>PCW Revision October 30, 2008</i>															
Reg. Ent. Reference No. RN102852548																
Media [Statute] Petroleum Storage Tank																
Enf. Coordinator Ross Fife																
Violation Number	1															
Rule Cite(s)	30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)															
Violation Description	Failed to verify proper operation of Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months, or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial system compliance testing had not been conducted.															
Base Penalty	\$10,000															
>> Environmental, Property and Human Health Matrix																
OR	Release	Harm														
		Major Moderate Minor														
	Actual	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>														
	Potential	<table border="1" style="width:100%;"><tr><td style="width:33%; text-align: center;">X</td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>	X													
X																
	Percent	25%														
>> Programmatic Matrix																
	Falsification	Major Moderate Minor														
	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>				<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>											
	Percent	0%														
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.															
Adjustment	\$7,500															
	\$2,500															
Violation Events																
Number of Violation Events	1	Number of violation days 1095														
<i>mark only one with an x</i>	<table border="1" style="width:100%;"> <tr><td>daily</td><td style="width:30px;"></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">X</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	X	Violation Base Penalty \$2,500
daily																
weekly																
monthly																
quarterly																
semiannual																
annual																
single event	X															
	One single event is recommended for the three-year period preceding the June 16, 2009 investigation															
Good Faith Efforts to Comply																
	25.0% Reduction	\$625														
	<table border="1" style="width:100%;"> <tr> <td style="width:50%;"></td> <td style="width:50%; text-align: center;">Before NOV NOV to EDPR/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td style="text-align: center;"><table border="1" style="width:100%;"><tr><td style="width:50%;"></td><td style="width:50%;"></td></tr></table></td> </tr> <tr> <td>Ordinary</td> <td style="text-align: center;"><table border="1" style="width:100%;"><tr><td style="width:50%; text-align: center;">X</td><td style="width:50%;"></td></tr></table></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;"><table border="1" style="width:100%;"><tr><td style="width:50%;"></td><td style="width:50%; text-align: center;">(mark with x)</td></tr></table></td> </tr> </table>		Before NOV NOV to EDPR/Settlement Offer	Extraordinary	<table border="1" style="width:100%;"><tr><td style="width:50%;"></td><td style="width:50%;"></td></tr></table>			Ordinary	<table border="1" style="width:100%;"><tr><td style="width:50%; text-align: center;">X</td><td style="width:50%;"></td></tr></table>	X		N/A	<table border="1" style="width:100%;"><tr><td style="width:50%;"></td><td style="width:50%; text-align: center;">(mark with x)</td></tr></table>		(mark with x)	
	Before NOV NOV to EDPR/Settlement Offer															
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X																
N/A	<table border="1" style="width:100%;"><tr><td style="width:50%;"></td><td style="width:50%; text-align: center;">(mark with x)</td></tr></table>		(mark with x)													
	(mark with x)															
Notes	The Respondent achieved compliance on June 16, 2009.															
Violation Subtotal	\$1,875															
Economic Benefit (EB) for this violation																
Estimated EB Amount	\$557	Violation Final Penalty Total \$2,557														
	This violation Final Assessed Penalty (adjusted for limits) \$2,557															

Economic Benefit Worksheet

Respondent VSNB, LLC dba Lockwood Phillips 66
Case ID No. 38060
Reg. Ent. Reference No. RN102852548
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				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

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]	\$466	16-Jun-2006	16-Jun-2009	3.92	\$91	\$466	\$557
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for annual and triennial testing of the Stage II equipment. The Date Required is three years prior to the investigation date. The Final Date is the compliance date.

Approx. Cost of Compliance

\$466

TOTAL

\$557

Compliance History Report

Customer/Respondent/Owner-Operator: CN603498163 VSNB, LLC Classification: Rating:
Regulated Entity: RN102852548 LOCKWOOD PHILLIPS 66 Classification: Site Rating:
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 57397
REGISTRATION
Location: 5320 EAST FWY, HOUSTON, TX, 77020
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: July 17, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 17, 2004 to July 17, 2009

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

Name: Ross Fife Phone: 512-239-2541

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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? VSNB, LLC

4. If Yes, who was/were the prior owner(s)/operator(s) ?
OWN ANA, INC.
OPR Karamali Ferzol Ali
5. When did the change(s) in owner or operator occur?
06/01/2006
11/01/2007

6.

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 08/10/2007 (571096)

2 06/29/2009 (759145)

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

Date: 08/10/2007 (571096) CN603498163

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Tex. Admin. Code Section 115.245 (2)- Failure to verify proper operation of the

Stage II equipment at least once every twelve months or upon major system replacement or modification, whichever occurs first.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
VSNB, LLC DBA LOCKWOOD
PHILLIPS 66
RN102852548**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1196-PST-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 VSNB, LLC dba Lockwood Phillips 66 ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. 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 convenience store with retail sales of gasoline at 5320 East Freeway in Houston, Harris County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 July 4, 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 Two Thousand Five Hundred Fifty-Seven Dollars (\$2,557) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Five Hundred Forty-Six Dollars (\$546) of the administrative penalty and Five Hundred Eleven Dollars (\$511) 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.

The remaining amount of One Thousand Five Hundred Dollars (\$1,500) of the administrative penalty shall be payable in three monthly payments of Five Hundred Dollars (\$500) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and 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 the University of Texas at Arlington, a TCEQ contractor, received documentation verifying that the Respondent successfully conducted the required annual and triennial testing of the Stage II equipment on June 16, 2009.
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 Station, the Respondent is alleged to have failed to verify proper operation of Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months, or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 16, 2009. Specifically, the Stage II annual and triennial system compliance testing had not been conducted.

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: VSNB, LLC dba Lockwood Phillips 66, Docket No. 2009-1196-PST-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 Station operations referenced in this Agreed Order.
3. 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.
4. 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.

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 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.
7. 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



For the Executive Director

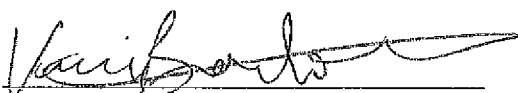
12/11/2009
Date

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.



Signature

10-19-09
Date

Victoria Boulos
Name (Printed or typed)
Authorized Representative of
VSNB, LLC dba Lockwood Phillips 66

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.

