

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-1304-MLM-E **TCEQ ID:** RN103154944 **CASE NO.:** 38163  
**RESPONDENT NAME:** Sabine River Authority of Texas

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input checked="" type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input checked="" type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Sabine River Authority of Texas Toledo Bend Division, west of Farm-to-Market Road 3121 approximately two miles south of its intersection with State Highway 21, Sabine County</p> <p><b>TYPE OF OPERATION:</b> Beneficial land use site</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 30, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> 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  <b>Respondent:</b> Mr. Steven Dougharty, Division Manager, Sabine River Authority of Texas, RR 1, Box 270, Burkeville, Texas 75932  Mr. Jerry Clark, General Manager, Sabine River Authority of Texas, RR 1, Box 270, Burkeville, Texas 75932  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 29, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 26, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER/WASTE</b></p> <p>1) Failure to prevent the unauthorized disposal and discharge of water treatment sludge. Specifically, water treatment sludge was disposed of into a pit about 225 feet long and 120 feet wide with an estimated average depth of six-feet deep, resulting in an unauthorized discharge of the liquid phase of the sludge by seepage through the northwest corner of the pit embankment which then flowed through a culvert to an unnamed ditch to the Toledo Bend Reservoir [30 TEX. ADMIN. CODE §§ 312.44(h)(1) and 330.15(a), TEX. WATER CODE § 26.121(a), and TCEQ Water Treatment Plant Sludge Registration No. 730046, Operation Requirements].</p> <p>2) Failure to prevent the unauthorized disposal of solid waste. Specifically, waste including tires, batteries, and fuel tanks (a small propane tank, two larger propane tanks, and two gasoline cans) had been disposed of on the west side of the pit embankment [30 TEX. ADMIN. CODE § 330.15(c) and TEX. WATER CODE § 26.121(c)].</p>	<p><b>Total Assessed:</b> \$1,900</p> <p><b>Total Deferred:</b> \$380  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,520</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on August 20, 2009, the Respondent provided documentation of the removal and proper disposal of the solid waste from the west side of the pit embankment at the Site.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order:</p> <p>i. Cease disposing of additional sludge in the unauthorized pit at the Site; and</p> <p>ii. Cease the unauthorized disposal of additional solid waste at the Site;</p> <p>b. Within 30 days after the effective date of this Agreed Order, remove the sludge in the pit at the Site and dispose of at an authorized facility or in accordance with TCEQ Water Treatment Plant Sludge Registration No. 730046; and</p> <p>c. Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, sampling results, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): 0



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

<b>ICEQ</b>	<b>DATES</b>	<b>Assigned</b>	15-Jun-2009	<b>Screening</b>	25-Jun-2009	<b>EPA Due</b>	
	<b>PCW</b>		3-Aug-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Sabine River Authority of Texas
<b>Reg. Ent. Ref. No.</b>	RN103154944
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38163	<b>No. of Violations</b>	2
<b>Docket No.</b>	2009-1304-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>	Municipal Solid Waste	<b>Enf. Coordinator</b>	Merrilee Hupp
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> \$2,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
<b>Compliance History</b>	0.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$0
<b>Notes</b>	No change due to compliance history.
<b>Culpability</b>	No 0.0% Enhancement <b>Subtotal 4</b> \$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b> \$100
<b>Economic Benefit</b>	0.0% Enhancement <b>Subtotal 6</b> \$0
<small>Total EB Amounts</small> \$85	<small>*Capped at the Total EB \$ Amount</small>
<small>Approx. Cost of Compliance</small> \$2,797	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> \$1,900
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0% <b>Adjustment</b> \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
<b>Notes</b>	
	<b>Final Penalty Amount</b> \$1,900
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> \$1,900
<b>DEFERRAL</b>	20.0% Reduction <b>Adjustment</b> -\$380
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
<b>Notes</b>	Deferral offered for expedited settlement.
<b>PAYABLE PENALTY</b>	\$1,520

**Screening Date** 25-Jun-2009

**Docket No.** 2009-1304-MLM-E

**PCW**

**Respondent** Sabine River Authority of Texas

Policy Revision 2 (September 2002)

**Case ID No.** 38163

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN103154944

**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 <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgments or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	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)** 0%

>> **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

No change due to compliance history.

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

<b>Screening Date</b> 25-Jun-2009	<b>Docket No.</b> 2009-1304-MLM-E	<b>PCW</b>	
<b>Respondent</b> Sabine River Authority of Texas	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 38163	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN103154944			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Merrilee Hupp			
<b>Violation Number</b> 1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 312.44(h)(1) and 330.15(a), Tex. Water Code § 26.121(a), and TCEQ Water Treatment Plant Sludge Registration No. 730046, Operation Requirements		
<b>Violation Description</b>	Failed to prevent the unauthorized disposal and discharge of water treatment sludge. Specifically, water treatment sludge was disposed of into a pit about 225 feet long and 120 feet wide with an estimated average depth of six feet deep, resulting in an unauthorized discharge of the liquid phase of the sludge by seepage through the northwest corner of the pit embankment which then flowed through a culvert to an unnamed ditch to the Toledo Bend Reservoir, as documented during an investigation on April 29, 2009.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
	Actual	Potential	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			10%
<b>&gt;&gt; Programmatic Matrix</b>			
	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Percent
			0%
<b>Matrix Notes</b>	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.		
<b>Adjustment</b>		\$9,000	
		\$1,000	
<b>Violation Events</b>			
Number of Violation Events: <input type="text" value="1"/>		Number of violation days: <input type="text" value="57"/>	
mark only one with an x	daily	<input type="checkbox"/>	
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
		<b>Violation Base Penalty</b>	
		\$1,000	
One quarterly event is recommended from the investigation date (April 29, 2009) to the screening date (June 25, 2009).			
<b>Good Faith Efforts to Comply</b>		<b>0.0% Reduction</b>	
		\$0	
	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>		\$1,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
Estimated EB Amount: <input type="text" value="\$62"/>		Violation Final Penalty Total: <input type="text" value="\$1,000"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
		\$1,000	

## Economic Benefit Worksheet

**Respondent:** Sabine River Authority of Texas  
**Case ID No.:** 38183  
**Reg. Ent. Reference No.:** RN103154944  
**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
<small>No commas or \$</small>							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$1,348	29-Apr-2009	1-Apr-2010	0.92	\$62	n/a	\$62
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs:** Estimated cost to stop the unauthorized discharge and to remove and properly dispose of the water treatment sludge in the pit, including disposal, tipping, and transportation fees. Date required is the investigation date and final date is the date compliance is expected to be achieved.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$1,348		<b>TOTAL</b>	\$62
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<b>Screening Date</b> 25-Jun-2009		<b>Docket No.</b> 2009-1304-MLM-E		<b>PCW</b>	
<b>Respondent</b> Sabine River Authority of Texas		<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 38163		<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN103154944					
<b>Media [Statute]</b> Water Quality					
<b>Enf. Coordinator</b> Merrilee Hupp					
<b>Violation Number</b>	2				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §.330.15(c) and Tex. Water Code §.26.121(c)				
<b>Violation Description</b>	Failed to prevent the unauthorized disposal of solid waste. Specifically, waste including tires, batteries, and fuel tanks (a small propane tank, two larger propane tanks, and two gasoline cans) had been disposed of on the west side of the pit embankment, as documented during an investigation on April 29, 2009.				
<b>Base Penalty</b>				\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				<b>Percent</b> 10%	
<b>&gt;&gt; Programmatic Matrix</b>					
		Falsification	Major	Moderate	Minor
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> 0%	
<b>Matrix Notes</b>	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.				
<b>Adjustment</b>				\$9,000	
				\$1,000	
<b>Violation Events</b>					
<b>Number of Violation Events</b>		1	<b>Number of violation days</b> 57		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>			
	weekly	<input type="checkbox"/>			
	monthly	<input type="checkbox"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input type="checkbox"/>			
				<b>Violation Base Penalty</b> \$1,000	
One quarterly event is recommended from the investigation date (April 29, 2009) to the screening date (June 25, 2009).					
<b>Good Faith Efforts to Comply</b>		10.0% Reduction		\$100	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>			
Ordinary	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
N/A	<small>(mark with x)</small>				
<b>Notes</b>	The Respondent achieved compliance by August 20, 2009.				
<b>Violation Subtotal</b>				\$900	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b> \$22		<b>Violation Final Penalty Total</b>		\$900	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$900	

## Economic Benefit Worksheet

**Respondent** Sabine River Authority of Texas  
**Case ID No.** 38163  
**Reg. Ent. Reference No.** RN103154944  
**Media** Water Quality  
**Violation No.** 2

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	\$1,449	29-Apr-2009	20-Aug-2009	0.31	\$22	n/a	\$22
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to remove and properly dispose of tires and other waste from the pit berm embankment. Date required is the investigation date and final date is when 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

\$1,449

**TOTAL**

\$22



# Compliance History Report

Customer/Respondent/Owner-Operator: CN600801864 Sabine River Authority of Texas Classification: AVERAGE Rating: 1.91  
Regulated Entity: RN103154944 SABINE RIVER AUTHORITY OF TEXAS TOLEDO BEND DIV Classification: HIGH Site Rating: 0.00  
ID Number(s): SLUDGE REGISTRATION 730046  
Location: W. of FM 3121 approx. 2 mi. s. of its intersec. with SH 21, Sabine Co., Tx.  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: August 11, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 11, 2004 to August 11, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Merrilee G. Hupp Phone: 512- 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur?
6. Rating Date: 9/1/2008 Repeat Violator: NO

## 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 07/11/2007 (566169)  
2 05/26/2008 (743991)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- 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  
SABINE RIVER AUTHORITY OF  
TEXAS  
RN103154944**

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§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1304-MLM-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 Sabine River Authority of Texas ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and 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 beneficial land use site west of Farm-to-Market Road 3121 approximately two miles south of its intersection with State Highway 21 in Sabine County, Texas ("the Site").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Site involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
4. 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.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 31, 2009.

6. 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.
7. An administrative penalty in the amount of One Thousand Nine Hundred Dollars (\$1,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Five Hundred Twenty Dollars (\$1,520) of the administrative penalty and Three Hundred Eighty Dollars (\$380) 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.
8. 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.
9. 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.
10. The Executive Director recognizes that on August 20, 2009, the Respondent provided documentation of the removal and proper disposal of the solid waste from the west side of the pit embankment at the Site.
11. 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.
12. 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.
13. 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 Site, the Respondent is alleged to have:

1. Failed to prevent the unauthorized disposal and discharge of water treatment sludge, in violation of 30 TEX. ADMIN. CODE §§ 312.44(h)(1) and 330.15(a), TEX. WATER CODE § 26.121(a), and TCEQ Water Treatment Plant Sludge Registration No. 730046, Operation Requirements, as documented during an investigation conducted on April 29, 2009. Specifically, water treatment sludge was disposed of into a pit about 225 feet long and 120 feet wide with an estimated average depth of six-feet deep, resulting in an unauthorized discharge of the liquid phase of the sludge by seepage through the northwest corner of the pit embankment which then flowed through a culvert to an unnamed ditch to the Toledo Bend Reservoir.

2. Failed to prevent the unauthorized disposal of solid waste, as documented during an investigation on April 29, 2009, in violation of 30 TEX. ADMIN. CODE § 330.15(c) and TEX. WATER CODE § 26.121(c). Specifically, waste including tires, batteries, and fuel tanks (a small propane tank, two larger propane tanks, and two gasoline cans) had been disposed of on the west side of the pit embankment.

### 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 7 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: Sabine River Authority of Texas, Docket No. 2009-1304-MLM-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order:
    - i. Cease disposing of additional sludge in the unauthorized pit at the Site; and
    - ii. Cease the unauthorized disposal of additional solid waste at the Site;
  - b. Within 30 days after the effective date of this Agreed Order, remove the sludge in the pit at the Site and dispose of at an authorized facility or in accordance with TCEQ Water Treatment Plant Sludge Registration No. 730046;
  - c. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, sampling results, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. The certification shall 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

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

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

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*Jean S. Klein*  
For the Executive Director

12/1/2009  
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.

*Jerry Clark*  
Signature

9-4-09  
Date

JERRY CLARK  
Name (Printed or typed)  
Authorized Representative of  
Sabine River Authority of Texas

General Manager  
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.