

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1717-IHW-E **TCEQ ID:** RN101445666 **CASE NO.:** 38579
RESPONDENT NAME: US Ecology Texas, Inc.

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 checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input 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: US Ecology Texas, 3277 County Road 69, Robstown, Nueces County</p> <p>TYPE OF OPERATION: Hazardous waste processing, storage, and disposal facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: Complaints were received on January 23, 2009 and July 14, 2009 alleging foul air odor and storage of waste containers in unauthorized areas, including the fence line and landfill face. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: Complaints were received, but the complainants have not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 11, 2010. 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: Mr. Thomas Greimel, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-5690; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Catherine Skurow, General Manager, US Ecology Texas, Inc., P.O. Box 307, Robstown, Texas 78380 Mr. Mark John, General Manager, US Ecology Texas, Inc., P.O. Box 307, Robstown, Texas 78380 Respondent's Attorney: Ms. Mary Reagan, McGinnis, Lochridge & Kilgore, L.L.P., 600 Congress Avenue, Suite 2100, Austin, Texas 78701</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: January 23, 2009 and July 14, 2009</p> <p>Date of Investigation Relating to this Case: June 3, 2009 and July 27, 2009</p> <p>Date of NOV/NOE Relating to this Case: September 4, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WASTE</p> <p>1) Failed to verify that used oil was excluded from the requirement to obtain a permit for storage, processing and disposal of hazardous waste. Specifically, the Repondent shipped reclaimed used oil off-site for recycling without confirming that the used oil met the exclusion from hazardous waste storage, processing and disposal requirements [30 TEX. ADMIN. CODE §§ 335.2 and 335.24, and 40 CODE OF FEDERAL REGULATIONS (CFR) § 279.11].</p> <p>2) Failed to provide notification of a change in recycling practice regarding the purpose a material serves in the recycling activity. Specifically, the Respondent failed to notify that petroleum materials may also be burned as fuel without reintroduction into the refining process [30 TEX. ADMIN. CODE § 335.6(b)].</p> <p>3) Failed to accurately describe recycling activities. Specifically, the Respondent did not provide information regarding the type of industrial waste to be recycled, the method of storage prior to recycling, and the nature of the recycling activity [30 TEX. ADMIN. CODE § 335.6(h)].</p> <p>4) Failed to maintain all required information in the operating record.</p>	<p>Total Assessed: \$54,600</p> <p>Total Deferred: \$10,920 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$21,840</p> <p>Total Paid to General Revenue: \$21,840</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent provided notification to the TCEQ that petroleum materials may also be burned as fuel without reintroduction into the refining process on February 13, 2009.</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:</p> <p>a. Immediately upon the effective date of this Agreed Order:</p> <p>i. Verify that used oil and reclaimed oil meet the exclusion from the requirement to obtain a permit for storage, processing, and disposal prior to shipment off-site for recycling;</p> <p>ii. Comply with stacking height provisions of the Facility's permit; and</p> <p>iii. Begin maintaining complete and consistent records for each hazardous waste received at the Facility. At a minimum, the Facility shall maintain in the operating record the following information, by the end of each work day, for each hazardous waste managed at the Facility:</p> <p>(1) A waste profile that includes a description of each hazardous waste received;</p> <p>(2) A manifest of receipt for each hazardous waste that includes the date received and the quantity received;</p> <p>(3) The method(s) and date(s) of treatment for each hazardous waste received;</p> <p>(4) The method(s) and date(s) each hazardous waste was placed into storage and removed from storage;</p>

<p>Specifically, facility field sheets and spreadsheet documentation were incomplete and included conflicting information regarding waste container storage locations and duration of storage [30 TEX. ADMIN. CODE §§ 305.125 and 335.152, 40 CFR § 264.73, and IHW Permit No. 50052, Provision Nos. I.G. and I.I.].</p> <p>5) Failed to comply with stacking height provisions of the Facility's permit. Specifically, waste containers were stacked in Container Storage Areas 3 and 9-1, 9-2 and 9-3 which are specified in Container Storage Table V.B of the Facility's permit as storage areas where stacking is not allowed [30 TEX. ADMIN. CODE §§ 305.125 and 335.152; and IHW Permit No. 50052, Provision Nos. I.I., I.G., III.A., and V.B.].</p>		<p>(5) The method(s) and dates(s) of disposal for each hazardous waste received;</p> <p>(6) A complete inventory, including all methods, dates, location(s), amount of wastes at each location, and duration of storage and treatment for each shipment and movement of hazardous waste within the Facility; and</p> <p>(7) The disposal location and quantity disposed for each hazardous waste received.</p> <p>b. Within 30 days after the effective date of this Agreed Order, provide notification which includes an accurate description of recycling activities.</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e. of this section to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.</p> <p>d. Within 540 days after the effective date of this Agreed Order, in addition to the recordkeeping detailed in Ordering Provision No. 2.a.iii., develop and implement a waste tracking system capable of providing a historical record of waste inventory.</p> <p>e. Within 555 days after the effective date of this Agreed Order, submit written certification and detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d.</p>
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Additional ID No(s): 50052

Attachment A

Docket Number: 2009-1717-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: US Ecology Texas, Inc.
Payable Penalty Amount: Forty-Three Thousand Six Hundred Eighty Dollars (\$43,680)
SEP Amount: Twenty-One Thousand Eight Hundred Forty Dollars (\$21,840)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance
Location of SEP: Nueces 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 offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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 protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The 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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division 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

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.





Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	8-Sep-2009			
	PCW	29-Jul-2010	Screening	24-Sep-2009	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	US Ecology Texas, Inc.		
Reg. Ent. Ref. No.	RN101445666		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38579	No. of Violations	4
Docket No.	2009-1717-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Greimel
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$35,000
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	56.0% Enhancement	Subtotals 2, 3, & 7	\$19,600
Notes	Enhancement for one Findings Agreed Order and 19 NOVs without same/similar violations and reduction for 5 NOIs and one DOV.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
<small>Total EB Amounts</small>	\$648	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$7,000		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$54,600
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		Final Penalty Amount	\$54,600
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$54,600
DEFERRAL	20.0% Reduction	Adjustment	-\$10,920
<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			\$43,680

Screening Date: 24-Sep-2009

Docket No.: 2009-1717-IHW-E

PCW

Respondent: US Ecology Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No.: 38579

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101445666

Media [Statute]: Industrial and Hazardous Waste

Enf. Coordinator: Thomas Greimel

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)	0	0%
	Other written NOVs	19	38%
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	1	25%
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)	5	-5%
	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%
<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) 56%

>> 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 for one Findings Agreed Order and 19 NOVs without same/similar violations and reduction for 5 NOIs and one DOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 56%

Screening Date 24-Sep-2009

Docket No. 2009-1717-IHW-E

PCW

Respondent US Ecology Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38579

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101445666

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 335.2 and 335.24, and 40 Code of Federal Regulations (CFR) § 279.11

Violation Description

Failed to verify that used oil was excluded from the requirement to obtain a permit for storage, processing and disposal of hazardous waste. Specifically, the Respondent shipped reclaimed used oil off-site for recycling without confirming that the used oil met the exclusion from hazardous waste storage, processing and disposal requirements.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

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 \$5,000

\$5,000

Violation Events

Number of Violation Events 4

113 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$20,000

Four monthly events are recommended from the June 3, 2009 investigation date to the September 24, 2009 screening date.

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 \$20,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$554

Violation Final Penalty Total \$31,200

This violation Final Assessed Penalty (adjusted for limits) \$31,200

Economic Benefit Worksheet

Respondent: US Ecology Texas, Inc.

Case ID No.: 38579

Reg. Ent. Reference No.: RN101445666

Media: Industrial and Hazardous Waste

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

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	\$5,000	12-Aug-2008	30-Oct-2010	2.22	\$554	n/a	\$554
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 cost to implement an analytical sampling program to ensure that the wastes meet the conditions of 40 CFR § 279.11. Date Required is the beginning date of used oil shipments off-site. Final Date is the estimated date of compliance.

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

\$5,000

TOTAL

\$554

Screening Date 24-Sep-2009

Docket No. 2009-1717-IHW-E

PCW

Respondent US Ecology Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38579

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101445666

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 335.6(b) and (h)

Violation Description

Failed to provide notification of a change in the recycling practice regarding the purpose a material serves in the recycling activity. Specifically, the Respondent failed to notify that petroleum materials may also be burned as fuel without reintroduction into the refining process. Failed to accurately describe recycling activities. Specifically, the Respondent did not provide information regarding the type of industrial waste to be recycled, the method of storage prior to recycling, and the nature of the recycling activity.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

113 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event recommended based on documentation of the violation during the June 3, 2009 investigation.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$3,900

This violation Final Assessed Penalty (adjusted for limits) \$3,900

Economic Benefit Worksheet

Respondent: US Ecology Texas, Inc.

Case ID No.: 38579

Reg. Ent. Reference No.: RN101445666

Media: Industrial and Hazardous Waste

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				0.00	\$0	n/a	\$0
Other (as needed)	\$250	28-Jan-2009	30-Oct-2010	1.75	\$22	n/a	\$22
Other (as needed)	\$250	28-Jan-2009	13-Feb-2009	0.04	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to provide updated notification to the TCEQ. Dates Required are the initial date of the investigation. Final Date, 13-Feb-2009, is the date of compliance for notification of a change in recycling practice. Final Date, 30-Oct-2010, is the estimated date of compliance for providing information which accurately describes recycling activities.

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

\$500

TOTAL

\$22

Screening Date 24-Sep-2009

Docket No. 2009-1717-IHW-E

PCW

Respondent US Ecology Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38579

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101445666

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125 and 335.152, 40 CFR § 264.73, and IHW Permit No. 50052, Provision-Nos. I.G. and I.I.

Violation Description

Failed to maintain all required information in the operating record. Specifically, facility field sheets and spreadsheet documentation were incomplete and included conflicting information regarding waste container storage locations and duration of storage.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 59

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the July 27, 2009 investigation.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$46

Violation Final Penalty Total \$3,900

This violation Final Assessed Penalty (adjusted for limits) \$3,900

Economic Benefit Worksheet

Respondent: US Ecology Texas, Inc.

Case ID No.: 38579

Reg. Ent. Reference No.: RN101445866

Media: Industrial and Hazardous Waste

Violation No.: 3

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	\$1,000	27-Jul-2009	30-Jun-2010	0.93	\$46	n/a	\$46
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 cost to maintain complete and organized records regarding the location and duration of storage of waste containers. Date Required is the investigation date. Final Date is the estimated date of compliance.

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

\$1,000

TOTAL

\$46

Screening Date 24-Sep-2009

Docket No. 2009-1717-IHW-E

PCW

Respondent US Ecology Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38579

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101445666

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125 and 335.152; and IHW Permit No. 50052, Provision Nos. I.I., I.G., III.A., and V.B.

Violation Description

Failed to comply with stacking height provisions of the Facility's permit. Specifically, waste containers were stacked in Container Storage Areas 3 and 9-1, 9-2 and 9-3 which are specified in Container Storage Table V.B. of the Facility's permit as storage areas where stacking is not allowed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

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 \$5,000

\$5,000

Violation Events

Number of Violation Events 2

59 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$10,000

Two monthly events are recommended from the July 27, 2009 investigation date to the September 24, 2009 screening date.

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 \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$15,600

This violation Final Assessed Penalty (adjusted for limits) \$15,600

Economic Benefit Worksheet

Respondent US Ecology Texas, Inc.

Case ID No. 38579

Reg. Ent. Reference No. RN101445666

Media Industrial and Hazardous Waste

Violation No. 4

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	\$500	27-Jul-2009	30-Jun-2010	0.93	\$23	n/a	\$23
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to comply with stacking height provisions of the permit. Date Required is the investigation date. Final Date is the estimated date of compliance.

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

\$500

TOTAL

\$23

Compliance History Report

Customer/Respondent/Owner-Operator: CN603247974 US Ecology Texas, Inc. Classification: AVERAGE Rating: 5.73
 Regulated Entity: RN101445666 US ECOLOGY TEXAS Classification: AVERAGE Site Rating: 11.47

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	NE0126S
	AIR OPERATING PERMITS	PERMIT	2300
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD069452340
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	50052
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50052
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50052
	WASTEWATER	PERMIT	WQ0002888000
	WASTEWATER	PERMIT	TPDES0104400
	WASTEWATER	PERMIT	TX0104400
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW278
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW279
	AIR NEW SOURCE PERMITS	PERMIT	31382
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	NE0126S
	AIR NEW SOURCE PERMITS	AFS NUM	4835500096
	AIR NEW SOURCE PERMITS	PERMIT	90163
	AIR NEW SOURCE PERMITS	REGISTRATION	84525
	AIR NEW SOURCE PERMITS	REGISTRATION	90168
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	59303
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	50052
	INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50052
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	NE0126S

Location: 3277 CR 69, ROBSTOWN, TX, 78380

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: October 20, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 20, 2004 to October 20, 2009

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

Name: Thomas Greimel Phone: (512) 239-5690

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? US Ecology Texas, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s) ? US Ecology Texas, L.P.
5. When did the change(s) in owner or operator occur? 7/17/2007
6. Rating Date: 9/1/2009 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.

Effective Date: 07/14/2006 ADMINORDER 2004-1146-MLM-E

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.4
 30 TAC Chapter 335, SubChapter F 335.152(a)(7)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.171

Rqmt Prov: III.D. PERMIT

Description: Failure to maintain Hazardous Waste containers in good condition.

Classification: Minor

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.15

Rqmt Prov: HW-50052 OP

Description: Failure to follow the inspection schedule set out in application Table III.D entitled Inspection Schedule which is included in Permit - HW-50052 as "Attachment E".

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(7)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.173(a)

Rqmt Prov: III.F. PERMIT

Description: Failure to keep a hazardous waste container closed during storage except when adding or removing waste.

Classification: Minor

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

Rqmt Prov: CP-50052 VI.B.1&2 IHWPERMTCP

Description: USET failed to sample all wells in accordance with the current Groundwater Sampling and Analysis Plan (GWSAP), or modify the current plan to reflect current sampling procedures.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.89(a)(1)(B)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(ii)

40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.193

Description: Failure to comply with the standards in 40 CFR §265 Subchapter J for hazardous waste tanks, specifically, secondary containment, certification, etc.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(12)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT N 264.301(g)

Rqmt Prov: 50052 PERMIT
HW-50052 PERMIT

Description: Failure to operate all leachate collection/leak detection systems with less than twelve (12) inches of head on each liner system.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(12)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT N 264.303(b)

Rqmt Prov: 50052 PERMIT

Description: Failure to inspect active landfill cells after rainfall events.

Classification: Moderate

Rqmt Prov: 50052 PERMIT

Description: Failed to record and convert action leakage rate calculation amounts of liquids removed from each leak detection system sump at least monthly during the post-closure period after the final cover is installed.

Classification: Moderate

Rqmt Prov: 50052 PERMIT

Description: During the investigation it was noted that there was standing water on the active face of the landfill. Although the water was being pumped from the active face, waste was being placed in the water on the active face of Cell 48 of the landfill.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(a)
Description: Failed to notify of a hazardous waste storage tank.

Classification: Moderate

Citation: 30 TAC Chapter 331, SubChapter D 331.64(c)(1)
30 TAC Chapter 331, SubChapter D 331.64(c)(2)

Rqmt Prov: Permit Provision XI.E.2. OP

Description: USET failed to maintain an automatic alarm shutoff system designed to sound and shut-in the well when pressures and flow rates or other parameters approved by the executive director exceed a range and/or gradient specified in the permit (Permit No. WDW-278).

Classification: Minor

Citation: 30 TAC Chapter 331, SubChapter D 331.64(c)
40 CFR Chapter 146, SubChapter D, PT 146, SubPT G 146.67(f)

Rqmt Prov: Permit Provision VIII.A. OP

Description: USET failed to properly maintain and use continuous recording devices to record injection tubing pressures and injection flow rates.

Classification: Minor

Citation: 30 TAC Chapter 331, SubChapter D 331.65(b)(1)
40 CFR Chapter 146, SubChapter D, PT 146, SubPT G 146.69(a)

Rqmt Prov: Permit Provision XI.E.2 OP

Description: USET failed to submit a quarterly report that complies with the reporting requirements of 40 CFR 146.69(a).

Classification: Major

Citation: 30 TAC Chapter 331, SubChapter D 331.63(d)

Rqmt Prov: Permit Provision VII.F. OP

Description: USET failed to maintain the annulus pressure at least 100 psi greater than the injection tubing pressure.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(8)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.192

Rqmt Prov: 50052 PERMIT

Description: USET failed to obtain the required certification for all components of the tank system.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(20)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT DD 264.1101(c)(3)

Rqmt Prov: 50052 PERMIT

Description: USET failed to collect, detect, and remove accumulated liquid in the secondary containment/leak detection system of the containment building within 24 hours.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4
30 TAC Chapter 335, SubChapter F 335.152(a)(20)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT DD 264.1101(c)(1)(iii)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT DD 264.1101(d)(2)

Rqmt Prov: 50052 PERMIT

Description: USET failed to collect decontamination liquids from containment building.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(2)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.35

Rqmt Prov: 50052 PERMIT

Description: USET failed to maintain required aisle space.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(20)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT DD 264.1101(c)(3)

Rqmt Prov: HW-50052 PERMIT

Description: USET failed to repair the secondary containment system of the containment building, failed to record the discovery of the failure, and failed to immediately remove the portion of the containment building affected by the condition from service.

Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.13(a)
Rqmt Prov: HW-50052-001 PERMIT
Description: USET failed to follow the waste analysis plan (WAP) as required by permit no. HW-50052.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: HW-50052-001 PERMIT
Description: USET accepted unauthorized waste.

Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.31
Rqmt Prov: HW-50052-001 PERMIT
Description: USET failed to operate the facility properly.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.12(c)(2)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT E 264.72(b)

Rqmt Prov: I.H.1. PERMIT

Description: USET failed to reconcile waste manifest discrepancy within 15 days.

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. (CEDS Inv. Track. No.)

1	10/26/2004	(364257)
2	10/26/2004	(364258)
3	11/16/2004	(388651)
4	12/27/2004	(388652)
5	01/11/2005	(388653)
6	02/09/2005	(426199)
7	02/10/2005	(348516)
8	02/10/2005	(348522)
9	03/29/2005	(426200)
10	03/30/2005	(373366)
11	04/13/2005	(426201)
12	04/25/2005	(378216)
13	05/18/2005	(426202)
14	06/10/2005	(378141)
15	06/20/2005	(426203)
16	07/26/2005	(446583)
17	07/27/2005	(400726)
18	08/05/2005	(446584)
19	08/31/2005	(405295)
20	09/20/2005	(446585)
21	10/13/2005	(479341)
22	11/14/2005	(479342)
23	12/27/2005	(479343)
24	01/09/2006	(479344)
25	01/19/2006	(435501)
26	02/06/2006	(479339)
27	02/14/2006	(451997)
28	03/08/2006	(479340)
29	04/04/2006	(456541)
30	04/17/2006	(461246)
31	04/20/2006	(462816)
32	04/24/2006	(505110)
33	05/08/2006	(505111)
34	05/12/2006	(464550)

35	06/14/2006	(505113)
36	06/19/2006	(505112)
37	07/11/2006	(505114)
38	08/15/2006	(497258)
39	08/17/2006	(527418)
40	08/25/2006	(510143)
41	08/30/2006	(488343)
42	09/07/2006	(527419)
43	10/04/2006	(527420)
44	11/07/2006	(551152)
45	12/04/2006	(551153)
46	01/04/2007	(551154)
47	01/30/2007	(538022)
48	02/05/2007	(551151)
49	02/13/2007	(538881)
50	03/01/2007	(587769)
51	03/12/2007	(540589)
52	04/11/2007	(587770)
53	04/25/2007	(554394)
54	04/25/2007	(555967)
55	05/07/2007	(587771)
56	05/30/2007	(557305)
57	05/31/2007	(542910)
58	06/05/2007	(587772)
59	07/10/2007	(587773)
60	08/17/2007	(605204)
61	08/23/2007	(570743)
62	09/07/2007	(605205)
63	10/10/2007	(605206)
64	10/17/2007	(567717)
65	11/05/2007	(628611)
66	11/20/2007	(601146)
67	12/07/2007	(628612)
68	01/15/2008	(628613)
69	02/13/2008	(615613)
70	02/15/2008	(616216)
71	02/18/2008	(676464)
72	02/26/2008	(618600)
73	03/07/2008	(636414)
74	03/10/2008	(637223)
75	03/17/2008	(676465)
76	04/18/2008	(676466)
77	04/29/2008	(639872)
78	04/29/2008	(641091)
79	05/02/2008	(646253)
80	05/16/2008	(657048)
81	05/16/2008	(694925)
82	05/27/2008	(680148)
83	06/09/2008	(694926)
84	06/20/2008	(682818)
85	07/02/2008	(694927)
86	08/06/2008	(653211)
87	08/26/2008	(716423)
88	09/22/2008	(716424)
89	10/20/2008	(716425)
90	11/17/2008	(731881)
91	11/24/2008	(703159)
92	11/26/2008	(706107)
93	12/18/2008	(755290)

94 01/13/2009 (731882)
 95 02/13/2009 (755287)
 96 02/16/2009 (724862)
 97 02/17/2009 (726764)
 98 02/18/2009 (724955)
 99 02/23/2009 (735698)
 100 03/16/2009 (755288)
 101 04/13/2009 (755289)
 102 05/05/2009 (740999)
 103 05/06/2009 (741221)
 104 05/18/2009 (745475)
 105 05/18/2009 (772381)
 106 06/15/2009 (772382)
 107 06/28/2009 (746720)
 108 08/12/2009 (759291)
 109 08/24/2009 (759479)
 110 08/31/2009 (724905)
 111 10/15/2009 (777994)

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

Date: 02/28/2005 (426200)
 Self 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: 06/09/2005 (378141)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(7)
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.171
 HW-50052 OP

Description: Failure to maintain hazardous waste containers in good condition.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.15(d)
 HW-50052 OP

Description: Failure to document corrective action on inspection records.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(12)
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT N 264.301(a)(2)
 HW-50052 OP
 Description: Failure to operate leachate collection/leak detection systems with less than 12 inches of head on system.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(3)
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)
 HW-50052 OP
 Description: Failed to properly and clearly label a hazardous waste storage tank with the "Hazardous Waste".

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(7)
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.173
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.173(a)
 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.173(b)
 HW-50052 OP
 Description: Failure to maintain closed hazardous waste containers.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 335, SubChapter O 335.431(c)
 40 CFR Chapter 268, SubChapter I, PT 268, SubPT E 268.50(a)(2)(i)
 Description: Failure to clearly mark each container to identify its contents.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 335, SubChapter E 335.124(b)
 30 TAC Chapter 335, SubChapter F 335.173(h)
 Description: Failure to immediately remove rainwater from the active landfill cell(s) and manage it

as contaminated wastewater.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(3)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT D 264.54(d)
HW-50052 OP
Description: Failure to update the Contingency Plan and Emergency Procedures Emergency
contacts Lists.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter C 335.89(a)(1)(B)
30 TAC Chapter 335, SubChapter E 335.112(a)(9)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.192(a)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.193(f)
HW-50052 OP
Description: Failure to provide adequate secondary containment for ancillary equipment.
Date: 07/31/2005 (446584)

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: 01/19/2006 (435501)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(20)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT DD 264.1101(a)(1)
VI. D. 1. OP
Description: Failure to ensure that the Containment Building is completely enclosed.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter O 335.431(c)
40 CFR Chapter 268, SubChapter I, PT 268, SubPT E 268.50(a)(2)(i)
Description: USET failed to clearly mark and identify contents of all hazardous containers in
storage.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.15(d)
Description: Failure to document the date and time of the inspections and the date and nature of
any repairs or remedial actions in the inspection record.
Date: 06/21/2006 (510143) CN603247974

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Self-reporting Requirements PERMIT
Description: Using unapproved self-generated Discharge Monitoring Report (DMR) forms to report
monitoring results.
Date: 11/30/2006 (518126)

Self Report? NO Classification: Moderate
Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.13(b)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT N 264.314(c)
Permit Provision V.G PERMIT
Description: Failure to follow the Waste Analysis Plan and failure to demonstrate the absence or
presence of free liquids in either a containerized or a bulk waste in accordance with
264.314(c).
Date: 01/17/2007 (518127) CN603247974

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125
Permit Section I.B. Permit Application PERMIT
Permit Section I.G. Permit Conditions PERMIT
Permit Section I.G.6. Modification PERMIT
Permit Section I.J.5. Application PERMIT
Permit Section II.A. Facility Design PERMIT
Description: Failure to comply with the permit by failing to follow the construction sequence as
written for Cells 43-46.
Date: 05/31/2007 (542910) CN603247974

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
HW-50052-001 Permit Provision V.D.1.a. PERMIT
Description: Failure to install piezometer wells or test pits in the proximity of each cell corner for the

purpose of determining groundwater elevation prior to cell excavation of cells 43-46 as required by the facility's permit.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
HW-50052-001 Provision Section 1.D.2. PERMIT
Description: Failure to operate Permitted Drum Building within the maximum authorized permitted capacity.
Date: 07/31/2007 (605204) CN603247974
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: 08/31/2007 (605205) CN603247974
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: 10/17/2007 (567717)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
CP-50052, Section VI.C.5.b. IHWPERMTCP
Description: Failure to perform field determinations in accordance with Compliance Plan No. 50052, Class 1-1 Modification.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
CP-50052, Section VI.B.1. IHWPERMTCP
Description: Failure to sample wells in accordance with the Sampling and Analysis Plan (SAP).
Date: 01/31/2008 (676464) CN603247974
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 (676466) CN603247974
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: 05/02/2008 (646253) CN603247974
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125
40 CFR Chapter 264, SubChapter I, PT 264, SubPT N 264.314(a)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT N 264.314(b)
PP. I. G. Standard Permit Conditions OP
PP. V.G. Special Requirements For Liquid OP
Description: Failure to follow the special requirements for liquid wastes, Permit Provision V.G.1-9.
Failure to conduct a paint filter test pursuant to 40 CFR 264.314.
Date: 05/14/2008 (657048) CN603247974
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(12)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT N 264.301(g)
50052 PERMIT
HW-50052 PERMIT
Description: Failure to operate all leachate collection/leak detection systems with less than twelve (12) inches of head on each liner system.
Self Report? NO Classification: Major
Citation: 2A TWC Chapter 7, SubChapter A 7.051(a)(1)(B)
OP 3.a.v. ORDER
Description: Failed to comply with Ordering Provisions of Commission Order Docket No. 2004-1146-MLM-E.
Date: 08/31/2008 (716424) CN603247974
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: 10/31/2008 (731881) CN603247974
 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: 02/18/2009 (724955) CN603247974
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Effluent Limit. and Monitoring Req. 2. PERMIT
 Description: Failure to meet the permit limitation for maximum pH for Outfalls 001, 002, 003, and
 004 during the month of August, 2008.
 Date: 05/31/2009 (772382) CN603247974
 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: 09/04/2009 (759090) CN603247974
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125
 SWR #50052, PP Section IX.A. PERMIT
 Description: Failure to comply with special permit provision.

F. Environmental audits.

Notice of Intent Date: 01/13/2005 (349881)
 Disclosure Date: 02/22/2005
 Viol. Classification: Moderate
 Rqmt PERMIT V.G.8 and WAP provision 3.1
 Description: chemical analyses were not obtained prior to receiving LDR wastes which do not require on-site treatment
 Viol. Classification: Moderate
 Citation: 40 CFR Chapter 268, SubChapter I, PT 268, SubPT D 268.40
 30 TAC Chapter 335, SubChapter D 335.431
 Rqmt PERMIT V.G.9
 Description: received and disposed of four loads of an off-specification Maleic Anhydride product that should have been sent for incineration
 Notice of Intent Date: 10/13/2005 (451916)
 No DOV Associated
 Notice of Intent Date: 10/06/2006 (518719)
 No DOV Associated
 Notice of Intent Date: 12/26/2007 (616539)
 No DOV Associated
 Notice of Intent Date: 07/22/2008 (701177)
 No DOV Associated

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
US ECOLOGY TEXAS, INC.
RN101445666**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1717-IHW-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 US Ecology Texas, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by the law firm of McGinnis, Lochridge & Kilgore, L.L.P., appear before the Commission and together stipulate that:

1. The Respondent owns and operates a hazardous waste processing, storage, and disposal facility at 3277 County Road 69 in Robstown, Nueces County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste and hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
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 notices of the violations alleged in Section II ("Allegations") on or about September 9, 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 Fifty-Four Thousand Six Hundred Dollars (\$54,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-One Thousand Eight Hundred Forty Dollars

(\$21,840) of the administrative penalty and Ten Thousand Nine Hundred Twenty Dollars (\$10,920) 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. Twenty-One Thousand Eight Hundred Forty Dollars (\$21,840) 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 the Respondent provided notification to the TCEQ that petroleum materials may also be burned as fuel without reintroduction into the refining process on February 13, 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 Facility, the Respondent is alleged to have:

1. Failed to verify that used oil was excluded from the requirement to obtain a permit for storage, processing and disposal of hazardous waste, in violation of 30 TEX. ADMIN. CODE §§ 335.2 and 335.24, and 40 CODE OF FEDERAL REGULATIONS (CFR) § 279.11, as documented during an investigation conducted on June 3, 2009. Specifically, the Respondent shipped reclaimed used oil off-site for recycling without confirming that the used oil met the exclusion from hazardous waste storage, processing and disposal requirements.
2. Failed to provide notification of a change in recycling practice regarding the purpose a material serves in the recycling activity, in violation of 30 TEX. ADMIN. CODE § 335.6(b), as documented during an investigation conducted on June 3, 2009. Specifically, the Respondent failed to notify that petroleum materials may also be burned as fuel without reintroduction into the refining process.

3. Failed to accurately describe recycling activities, in violation of 30 TEX. ADMIN. CODE § 335.6(h), as documented during an investigation conducted on June 3, 2009. Specifically, the Respondent did not provide information regarding the type of industrial waste to be recycled, the method of storage prior to recycling, and the nature of the recycling activity.
4. Failed to maintain all required information in the operating record, in violation of 30 TEX. ADMIN. CODE §§ 305.125 and 335.152, and 40 CFR § 264.73, and IHW Permit No. 50052, Provision Nos. I.G. and I.I., as documented during an investigation conducted on July 27, 2009. Specifically, facility field sheets and spreadsheet documentation were incomplete and included conflicting information regarding waste container storage locations and duration of storage.
5. Failed to comply with stacking height provisions of the Facility's permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125 and 335.152, and IHW Permit No. 50052, Provision Nos. I.I., I.G., III.A., and V.B., as documented during an investigation conducted on July 27, 2009. Specifically, waste containers were stacked in Container Storage Areas 3 and 9-1, 9-2 and 9-3 which are specified in Container Storage Table V.B of the Facility's permit as storage areas where stacking is not allowed.

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: US Ecology Texas, Inc., Docket No. 2009-1717-IHW-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 an SEP in accordance with Tex. Water Code § 7.067. As set forth in Section I, Paragraph 6, Twenty-One Thousand Eight Hundred Forty Dollars (\$21,840) of the assessed administrative penalty shall be offset with the condition that the Respondent implement 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 shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order:
 - i. Verify that used oil and reclaimed oil meet the exclusion from the requirement to obtain a permit for storage, processing, and disposal prior to shipment off-site for recycling, in accordance with 30 TEX. ADMIN. CODE §§ 335.2 and 335.24, and 40 CFR § 279.11;
 - ii. Comply with stacking height provisions of the Facility's permit, in accordance with 30 TEX. ADMIN. CODE §§ 305.125 and 335.152, and IHW Permit No. 50052, Provision Nos. I.I., I.G., III.A., and V.B; and
 - iii. Begin maintaining complete and consistent records for each hazardous waste received at the Facility, in accordance with §§ 40 CFR 264.13, 40 CFR 264.73, and 40 CFR 264.74. At a minimum, the Facility shall maintain in the operating record the following information, by the end of each work day, for each hazardous waste managed at the Facility:
 - (1) A waste profile that includes a description of each hazardous waste received;
 - (2) A manifest of receipt for each hazardous waste that includes the date received and the quantity received;
 - (3) The method(s) and date(s) of treatment for each hazardous waste received;
 - (4) The method(s) and date(s) each hazardous waste was placed into storage and removed from storage;
 - (5) The method(s) and dates(s) of disposal for each hazardous waste received;
 - (6) A complete inventory, including all methods, dates, location(s), amount of wastes at each location, and duration of storage and treatment for each shipment and movement of hazardous waste within the Facility; and
 - (7) The disposal location and quantity disposed for each hazardous waste received.
- b. Within 30 days after the effective date of this Agreed Order, provide notification which includes an accurate description of recycling activities, in accordance with 30 TEX. ADMIN. CODE § 335.6.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.e. of this section to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.b.

- d. Within 540 days after the effective date of this Agreed Order, in addition to the recordkeeping detailed in Ordering Provision 3.a.iii., develop and implement a waste tracking system capable of providing a historical record of waste inventory.
- e. Within 555 days after the effective date of this Agreed Order, submit written certification and detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.d. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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:

Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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



For the Executive Director

Date 10/22/2010

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

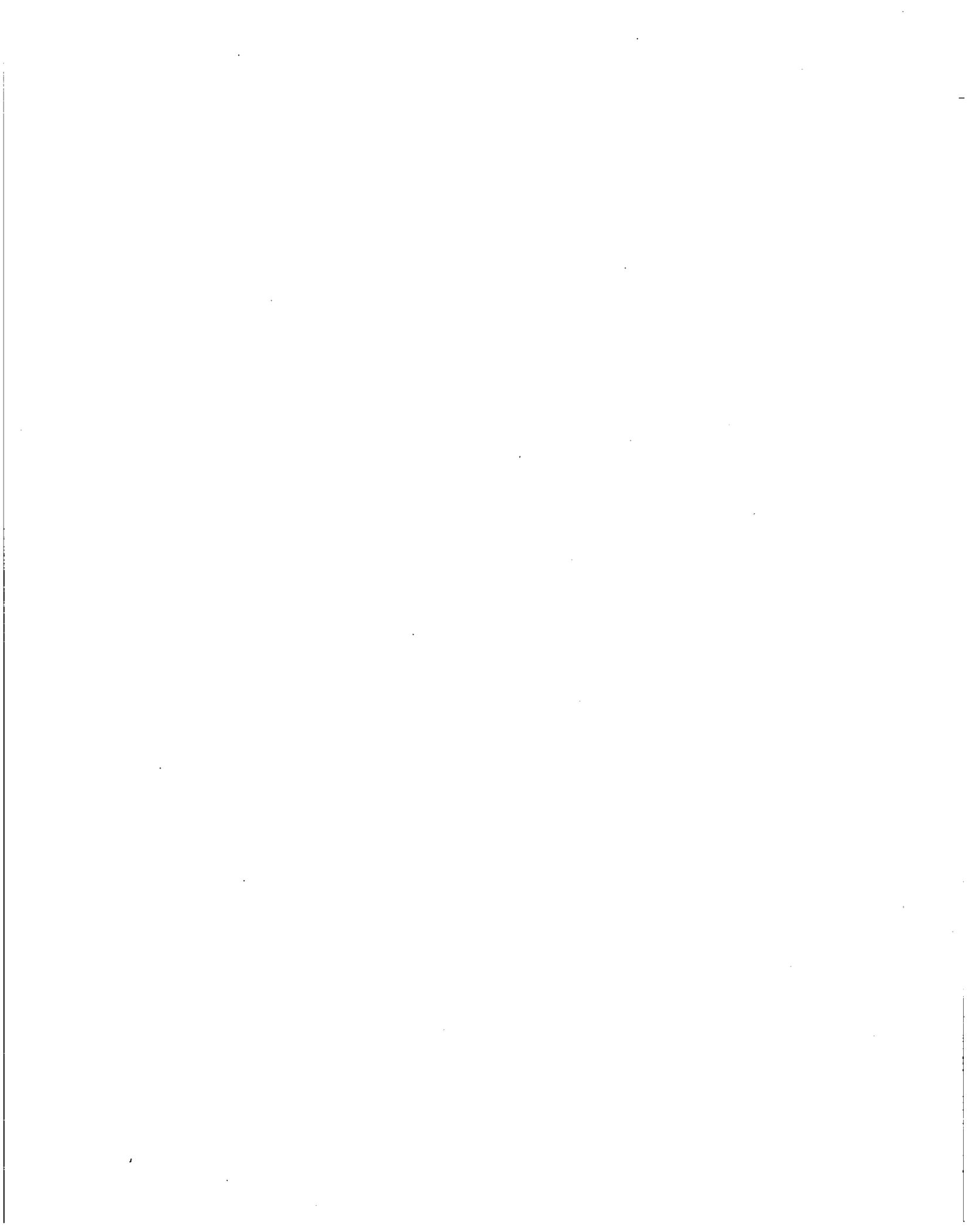
Date 8/17/10

MARK John

Name (Printed or typed)
Authorized Representative of
US Ecology Texas, Inc.

Title General Manager

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: 2009-1717-IHW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: US Ecology Texas, Inc.

Payable Penalty Amount: Forty-Three Thousand Six Hundred Eighty Dollars
(\$43,680)

SEP Amount: Twenty-One Thousand Eight Hundred Forty Dollars
(\$21,840)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and
Development Areas, Inc. ("RC&D")- Water or
Wastewater Treatment Assistance

Location of SEP: Nueces 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 offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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 protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The 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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division 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

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.

