

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-1308-IWD-E **TCEQ ID:** RN105378178 **CASE NO.:** 38254  
**RESPONDENT NAME:** VAM USA

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> VAM USA, located one mile southwest of the intersection of United States Highway 90 and Sheldon Road, Harris County</p> <p><b>TYPE OF OPERATION:</b> Pipe threading and coating facility with a wastewater treatment system</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 February 1, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930;  Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Martin Olivarez, Plant Manager, VAM USA, 16031 Miller Road 1, Houston, Texas 77049  Mr. M. Judson Wallace, President, VAM USA, 16031 Miller Road 1, Houston, Texas 77049  <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 type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" 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> June 4, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 5, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to comply with permitted effluent limits for oil &amp; grease, total ammonia nitrogen, total cyanide, total copper, total nickel, carbonaceous biochemical oxygen demand, and total zinc [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004841000, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0004841000, Monitoring and Reporting Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$33,280</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$16,640</p> <p><b>Total Paid to General Revenue:</b> \$16,640</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" 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>Findings Orders Justification:</b> Human health or the environment has been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Ordering Provisions:</b></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. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly discharge monitoring reports ("DMRs"); and</p> <p>ii. Submit the revised and completed DMRs for the monitoring periods ending October 2008, November 2008, December 2008, January 2009, February 2009, and March 2009.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. 2.a;</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0004841000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and</p> <p>d. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.c.</p>

Attachment A  
Docket Number: 2009-1308-IWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>VAM USA</b>
<b>Penalty Amount:</b>	<b>Thirty-Three Thousand Two Hundred Eighty Dollars (\$33,280)</b>
<b>SEP Offset Amount:</b>	<b>Sixteen Thousand Six Hundred Forty Dollars (\$16,640)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Gulf Coast Waste Disposal Authority - River, Lakes, Bays, and Bayous Trash Bash</b>
<b>Location of SEP:</b>	<b>Harris County</b>

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 Offset 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 to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Gulf Coast Waste Disposal Authority to be used for the River, Lakes, Bays, and Bayous Trash Bash Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Trash Bash is an annual event that entails the use of volunteers to clean up trash and pollutants from Galveston Bay and waterways in the San Jacinto watershed. The project has resulted in the removal of an average of 141.7 tons of trash and 729 abandoned tires annually from these waterways. SEP monies will be used to pay for materials, supplies, disposal cost and transportation cost directly associated with the clean up of trash and pollutants from the Galveston Bay and waterways in the San Jacinto watershed.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The Project will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.



C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset 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 Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Gulf Coast Waste Disposal Authority  
Rivers, Lakes, Bays, and Bayous Trash Bash  
Attention: Lori Gernhardt  
910 Bay Area Boulevard  
Houston, TX 77052

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset 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 expenditure of the SEP Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it 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 a 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

<b>DATES</b>	Assigned	3-Aug-2009	Screening	10-Aug-2009	EPA Due	
	PCW	17-Aug-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	VAM USA
Reg. Ent. Ref. No.	RNT05378178
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38254	No. of Violations	3
Docket No.	2009-1308-IWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 1
Maximum	\$10,000		

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* **\$25,600**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

**Compliance History** 30.0% Enhancement *Subtotals 2, 3, & 7* **\$7,680**

Notes: The penalty is enhanced due to six monthly self-reported effluent violations.

**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**

Total EB Amounts \$811  
Approx. Cost of Compliance \$5,400  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$33,280**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

*Final Penalty Amount* **\$33,280**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$33,280**

**DEFERRAL** 0.0% Reduction *Adjustment* **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$33,280**

**Screening Date** 10-Aug-2009

**Docket No.** 2009-1308-IWD-E

**PCW**

**Respondent** VAM USA

Policy Revision 2 (September 2002)

**Case ID No.** 38254

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN105378178

**Media [Statute]** Water Quality

**Enf. Coordinator** Steve Villatoro

### 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)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 30%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

The penalty is enhanced due to six monthly self-reported effluent violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 30%

<b>Screening Date:</b> 10-Aug-2009	<b>Docket No.:</b> 2009-1308-IWD-E	<b>PCW</b>
<b>Respondent:</b> VAM USA	Policy Revision 2 (September 2002)	
<b>Case ID No.:</b> 38254	PCW Revision October 30, 2008	
<b>Reg. Ent. Reference No.:</b> RN105378178		
<b>Media [Statute]:</b> Water Quality		
<b>Enf. Coordinator:</b> Steve Villatoro		
<b>Violation Number:</b> 1		
<b>Rule Cite(s):</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004841000, Effluent Limitations and Monitoring Requirements No. 1	
<b>Violation Description:</b>	Failed to comply with permit effluent limits, as documented during a record review conducted on June 4, 2009 and shown in the attached table.	
<b>Base Penalty:</b>		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	x		
Potential				Percent <input type="text" value="50%"/>

>> Programmatic Matrix

	Major	Moderate	Minor	
Falsification				Percent <input type="text" value="0%"/>

**Matrix Notes:** A simplified model was used to evaluate total copper, total nickel, total zinc, carbonaceous biochemical oxygen demand, oil and grease, and total ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow values were also considered. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels protective of human health or environmental receptors.

**Adjustment:** \$5,000

**\$5,000**

Violation Events

Number of Violation Events        Number of violation days

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

**Violation Base Penalty:** \$20,000

Four monthly events are recommended for the months of October 2008, November 2008, December 2008, and January 2009.

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.	
<b>Violation Subtotal:</b>		\$20,000

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$582"/>	Violation Final Penalty Total <input type="text" value="\$26,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$26,000"/>	

## Economic Benefit Worksheet

**Respondent** VAM USA  
**Case ID No.** 38254  
**Reg. Ent. Reference No.** RN105378178  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$5,000	31-Oct-2008	30-Jun-2010	1.66	\$28	\$554	\$582
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to to determine cause of non-compliance and to implement corrective actions. Date required is the first date of noncompliance. Final date is the expected 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

\$582

<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1308-IWD-E	<b>PCW</b>
<b>Respondent</b>	VAM USA	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	38254	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.</b>	RN105378178			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Steve Villatoro			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(f) and TPDES Permit No. WQ0064841000, Effluent Limitations and Monitoring Requirements No. 1			
<b>Violation Description</b>	Failed to comply with permit effluent limits, as documented during a record review conducted on June 4, 2009 and shown in the attached table.			
<b>Base Penalty</b>				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	X		
Potential				

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				

Matrix Notes

A simplified model was used to evaluate total copper and total nickel to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow values were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events   Number of violation days

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

Violation Base Penalty \$5,000

Two monthly events are recommended for the months of February 2009 and March 2009.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$0

Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$6,500

This violation Final Assessed Penalty (adjusted for limits) \$6,500

## Economic Benefit Worksheet

**Respondent:** VAM USA  
**Case ID No.:** 38254  
**Reg. Ent. Reference No.:** RN105378178  
**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				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

See violation number one.

### 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

\$0

**TOTAL**

\$0

<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1308-IWD-E	<b>PCW</b>
<b>Respondent</b>	VAM USA	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	38254	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.</b>	RN105378178			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Steve Villatoro			
<b>Violation Number</b>	3			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0004641000, Monitoring and Reporting Requirements No. 1			
<b>Violation Description</b>	Failed to submit monitoring results at the intervals specified in the permit, as documented in a record review on June 4, 2009. Specifically, the Respondent failed to submit the discharge monitoring report ("DMR") parameter data for total toxic organics for the monitoring periods ending October 31, 2008, November 30, 2008, December 31, 2008, January 31, 2009, February 28, 2009, and March 31, 2009.			
<b>Base Penalty</b>	\$10,000			

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential				0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				X	1%

Matrix Notes: More than 70% of permit requirement was met.

Adjustment: \$9,900

\$100

Violation Events

Number of Violation Events: 6      263      Number of violation days

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

Violation Base Penalty: \$600

Six single events are recommended (one for each DMR with missing information).

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: \$600

Economic Benefit (EB) for this violation      Statutory Limit Test

Estimated EB Amount: \$29      Violation Final Penalty Total: \$780

This violation Final Assessed Penalty (adjusted for limits): \$780

### Economic Benefit Worksheet

**Respondent:** VAM USA  
**Case ID No.:** 38264  
**Reg. Ent. Reference No.:** RN105378178  
**Media:** Water Quality  
**Violation No.:** 3

<b>Percent Interest</b>	<b>Years of Depreciation:</b>
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	\$150	20-Nov-2008	30-Apr-2010	1.44	\$11	n/a	\$11
Training/Sampling	\$250	20-Nov-2008	30-Apr-2010	1.44	\$18	n/a	\$18
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 provide missing DMR parameter data and to update the Facility's operational guidance and conduct employee training. Date required is date the first complete DMR was due. Final date is the expected 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 \$400 TOTAL \$29

EFFLUENT VIOLATION TABLE							
VAM USA							
TPDES Permit No. WQ0004841000							
Docket No. 2009-1308-IWD-E							
Effluent	Limits	10/31/2008	11/30/2008	12/31/2008	1/31/2009	2/28/2009	3/31/2009
Oil & Grease Daily Max Loading	Limit = 1.3 lbs/day	1.39	c	1.38	c	c	c
Total Ammonia Nitrogen Daily Avg Conc.	Limit = 3.0 mg/L	4.2	3.11	4.1	5.42	c	c
Total Ammonia Nitrogen Daily Max Conc.	Limit = 10.0 mg/L	c	c	c	11.9	c	c
Total Cyanide Daily Max Loading	Limit = .002 lbs/day	0.003	c	c	c	c	c
Total Copper Daily Avg Loading	Limit = .001 lbs/day	0.002	0.004	0.005	0.003	c	0.004
Total Copper Daily Max Loading	Limit = .002 lbs/day	0.008	0.011	0.014	0.007	c	0.006
Total Nickel Daily Avg Loading	Limit = .0022 lbs/day	0.1483	0.1227	0.153	0.0665	0.0209	0.0192
Total Nickel Daily Max Loading	Limit = .0044 lbs/day	0.52822	0.26741	0.34187	0.16263	0.04074	0.02993
CBOD Daily Avg Conc.	Limit = 10 mg/L	12	12	c	c	c	c
Total Zinc Daily Avg Loading	Limit = .008 mg/l	0.018	0.047	0.069	c	c	c
Total Zinc Daily Max Loading	Limit = .017 lbs/day	0.018	0.047	0.069	c	c	c

Max. = maximum

mg/L = milligrams per liter

c = compliant

CBOD = carbonaceous biochemical oxygen demand

lbs/day = pounds per day

Conc. = concentration

Avg. = average



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603275793	VAM USA	Classification: AVERAGE	Rating: 2.87
Regulated Entity:	RN105378178	VAM USA	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	WASTEWATER	PERMIT		TX0129917
	WASTEWATER	PERMIT		WQ0004841000
	WASTEWATER	EPA ID		TX0129917
Location:	One mile southwest of the intersection of United States Highway 90 and Sheldon Road, Harris County, Texas.			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	August 21, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 17, 2004 to August 17, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Steve Villatoro	Phone:	512-239-4930	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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? N/A
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	01/28/2009	(757078)
2	01/28/2009	(757079)
3	01/28/2009	(757080)
4	01/28/2009	(757081)
5	02/19/2009	(757075)
6	03/12/2009	(757076)
7	04/13/2009	(757077)
8	08/07/2009	(748248)

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

Date:	10/31/2008	CN603275793	
Self Report? YES		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2008	CN603275793	
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:	12/31/2008	CN603275793	

Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 01/31/2009 CN603275793  
 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: 02/28/2009 CN603275793  
 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: 03/31/2009 CN603275793  
 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

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  
VAM USA  
RN105378178

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-1308-IWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding VAM USA ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a pipe threading and coating facility with a wastewater treatment system located one mile southwest of the intersection of United States Highway 90 and Sheldon Road in Harris County, Texas (the "Facility").

2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on June 4, 2009, TCEQ staff documented the following effluent data from the Facility's self-reported discharge monitoring reports ("DMR"):

EFFLUENT VIOLATION TABLE							
Effluent	Limits	10/31/2008	11/30/2008	12/31/2008	1/31/2009	2/28/2009	3/31/2009
Oil & Grease Daily Max Loading	Limit = 13 lbs/day	1.39	c	1.38	c	c	c
Total Ammonia Nitrogen Daily Avg Conc	Limit = 3.0 mg/l	4.2	3.11	4.1	5.42	c	c
Total Ammonia Nitrogen Daily Max Conc	Limit = 10.0 mg/l	c	c	c	11.9	c	c
Total Cyanide Daily Max Loading	Limit = .002 lbs/day	0.003	c	c	c	c	c
Total Copper Daily Avg Loading	Limit = .001 lbs/day	0.002	0.004	0.005	0.003	c	0.004
Total Copper Daily Max Loading	Limit = .002 lbs/day	0.008	0.011	0.014	0.007	c	0.006
Total Nickel Daily Avg Loading	Limit = .0022 lbs/day	0.1483	0.1227	0.153	0.0665	0.0209	0.0192
Total Nickel Daily Max Loading	Limit = .0044 lbs/day	0.52822	0.26741	0.34187	0.16263	0.04074	0.02993
CBOD Daily Avg Conc	Limit = 10 mg/l	12	12	c	c	c	c
Total Zinc Daily Avg Loading	Limit = .008 mg/L	0.018	0.047	0.069	c	c	c
Total Zinc Daily Max Loading	Limit = .017 lbs/day	0.018	0.047	0.069	c	c	c

Max. = maximum

mg/L = milligrams per liter

c = compliant

CBOD = carbonaceous biochemical oxygen demand

lbs/day = pounds per day

Conc. = concentration

Avg. = average

4. During a record review on June 4, 2009, TCEQ staff documented the Respondent did not submit effluent monitoring data for total toxic organics for the monitoring periods ending October 31, 2008, November 30, 2008, December 31, 2008, January 31, 2009, February 28, 2009, and March 31, 2009.
5. The Respondent received notice of the violations on August 10, 2009.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, as documented during a record review conducted on June 4, 2009, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004841000, Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit monitoring results at the intervals specified in the permit, as documented during a record review on June 4, 2009, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0004841000, Monitoring and Reporting Requirements No. 1.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Thirty-Three Thousand Two Hundred Eighty Dollars (\$33,280) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Sixteen Thousand Six Hundred Forty Dollars (\$16,640) of the administrative penalty. Sixteen Thousand Six Hundred Forty Dollars (\$16,640) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

## III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Thirty-Three Thousand Two Hundred Eighty Dollars (\$33,280) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order

completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: VAM USA, Docket No. 2009-1308-IWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3087

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II Paragraph 5 above, Sixteen Thousand Six Hundred Forty Dollars (\$16,640) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs, in accordance with TPDES Permit No. WQ0004841000, Monitoring and Reporting Requirements No. 1; and
    - ii. Submit the revised and completed DMRs for the monitoring periods ending October 2008, November 2008, December 2008, January 2009, February 2009, and March 2009 to:

Compliance Monitoring Section  
Enforcement Division, MC 224  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - b. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. 3.a. The certification shall be in accordance with Ordering Provision No. 3.d below;
  - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0004841000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge

monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be in accordance with Ordering Provision No. 3.d below; and

- d. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.c. 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 fine 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 11/29/2010

I, the undersigned, have read and understand the attached Agreed Order in the matter of VAM USA. I am authorized to agree to the attached Agreed Order on behalf of VAM USA, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, VAM USA waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 11/17/09

M. Judson Wallace  
Name (Printed or typed)  
Authorized Representative of  
VAM USA

PRESIDENT  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.



**Attachment A**  
**Docket Number: 2009-1308-IWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>VAM USA</b>
<b>Penalty Amount:</b>	<b>Thirty-Three Thousand Two Hundred Eighty Dollars (\$33,280)</b>
<b>SEP Offset Amount:</b>	<b>Sixteen Thousand Six Hundred Forty Dollars (\$16,640)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Gulf Coast Waste Disposal Authority - River, Lakes, Bays, and Bayous Trash Bash</b>
<b>Location of SEP:</b>	<b>Harris County</b>

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 Offset 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 to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Gulf Coast Waste Disposal Authority to be used for the River, Lakes, Bays, and Bayous Trash Bash Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Trash Bash is an annual event that entails the use of volunteers to clean up trash and pollutants from Galveston Bay and waterways in the San Jacinto watershed. The project has resulted in the removal of an average of 141.7 tons of trash and 729 abandoned tires annually from these waterways. SEP monies will be used to pay for materials, supplies, disposal cost and transportation cost directly associated with the clean up of trash and pollutants from the Galveston Bay and waterways in the San Jacinto watershed.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

The Project will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset 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 Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Gulf Coast Waste Disposal Authority  
Rivers, Lakes, Bays, and Bayous Trash Bash  
Attention: Lori Gernhardt  
910 Bay Area Boulevard  
Houston, TX 77052

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset 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 expenditure of the SEP Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it 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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

