Executive Summary – Enforcement Matter – Case No. 41137
Clean Harbors Deer Park, LLC
RN102184173
Docket No. 2011-0253-IWD-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
IWD
Small Business:
No
Location(s) Where Violation(s) Occurred:
Clean Harbors Deer Park, 2027 Independence Parkway South, south of Tidal Road, west of State Highway 134, and east of and adjacent to Tucker Bayou, La Porte, Harris County
Type of Operation:
Industrial and hazardous waste treatment, storage, and disposal facility
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: July 15, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $23,900
Amount Deferred for Expedited Settlement: $4,780
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $9,560
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $9,560
Name of SEP: Galveston Bay Foundation - "Marsh Mania"
Compliance History Classifications:
Person/CN - Average
Site/RN - Average
Major Source: Yes
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41137
Clean Harbors Deer Park, LLC
RN102184173
Docket No. 2011-0253-IWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: January 25, 2011
Date(s) of NOE(s): January 28, 2011

Violation Information

Failed to comply with the permitted effluent limitations for total cadmium, total nickel, total selenium, total silver, and total zinc [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001429000 Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

a. By June 18, 2009, submitted an amended renewal application for TPDES Permit No. WQ0001429000; and

b. By January 13, 2011, initiated construction of a discharge pipeline to a new effluent outfall and diffuser.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

2. The Order will also require the Respondent to:

a. Within 30 days, and on a quarterly basis thereafter, submit a report to the Commission, documenting the progress of the construction project. The reports shall be submitted on a quarterly basis until written certification of compliance with Ordering Provision b. is submitted;

b. By November 30, 2011, submit written certification that construction of the discharge pipeline, the new effluent outfall, and diffuser have been completed;

c. By March 31, 2012, submit written certification demonstrating compliance with permitted effluent limitations.

Executive Summary – Enforcement Matter – Case No. 41137
Clean Harbors Deer Park, LLC
RN102184173
Docket No. 2011-0253-IWD-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732
Respondent: Phillip G. Retallick, Senior Vice President, Clean Harbors Deer Park, LLC, 42 Longwater Drive, Norwell, Maine 02061
Eric Gerstenberg, Executive Vice President, Clean Harbors Deer Park, LLC, 42 Longwater Drive, Norwell, Maine 02061
Respondent's Attorney: Allen Beinke, Attorney, Tuggey Rosenthal Pauerstein Sandoloski Agather LLP, 755 East Mulberry, Suite 200, San Antonio, Texas 78212

Attachment A
Docket Number: 2011-0253-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Clean Harbors Deer Park, LLC**
Payable Penalty Amount:	**Nineteen Thousand One Hundred Twenty Dollars ($19,120)**
SEP Amount:	**Nine Thousand Five Hundred Sixty Dollars ($9,560)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Galveston Bay Foundation-"Marsh Mania"**
Location of SEP:	**Harris 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 Galveston Bay Foundation to be used for the Galveston Bay Foundation "Marsh Mania" as set forth in the agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

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 providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

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:

Mr. Bob Stokes, President
Galveston Bay Foundation
17330 Highway 3
Webster, Texas 77598

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:

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

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

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*

TCEQ

DATES						
Assigned	31-Jan-2011					
PCW	8-Feb-2011	**Screening**	8-Feb-2011	**EPA Due**	5-Jun-2011	

RESPONDENT/FACILITY INFORMATION

Respondent	Clean Harbors Deer Park, LLC		
Reg. Ent. Ref. No.	RN102184173		
Facility/Site Region	12-Houston	**Major/Minor Source**	Major

CASE INFORMATION

Enf./Case ID No.	41137	**No. of Violations**	1
Docket No.	2011-0253-IWD-E	**Order Type**	1660
Media Program(s)	Water Quality	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	JR Cao
		EC's Team	Enforcement Team 1

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$10,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **139.0%** Enhancement — *Subtotals 2, 3, & 7* **$13,900**

Notes: Enhancement for one NOV with a same/similar violation, twelve NOVs with dissimilar violations, one order with denial of liability, and 18 months of 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 $8,856
Approx. Cost of Compliance $150,000
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$23,900**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$23,900**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$23,900**

DEFERRAL **20.0%** Reduction — *Adjustment* **-$4,780**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$19,120**

Screening Date 8-Feb-2011 **Docket No.** 2011-0253-IWD-E **PCW**

Respondent Clean Harbors Deer Park, LLC

Policy Revision 2 (September 2002)

Case ID No. 41137

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184173

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	19	95%
	Other written NOVs	12	24%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
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) 139%

>> 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 NOV with a same/similar violation, twelve NOVs with dissimilar violations, one order with denial of liability, and 18 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 139%

Screening Date 8-Feb-2011 **Docket No.** 2011-0253-IWD-E **PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Respondent Clean Harbors Deer Park, LLC

Case ID No. 41137

Reg. Ent. Reference No. RN102184173

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001429000 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented in a record review on January 25, 2011, and shown in the attached violation table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Harm: Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate total cadmium, total nickel, total selenium, total silver, and total zinc to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events: 2 — 61 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 for the months of October 2010 and November 2010.

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

Estimated EB Amount $8,856

Statutory Limit Test

Violation Final Penalty Total $23,900

This violation Final Assessed Penalty (adjusted for limits) $23,900

Economic Benefit Worksheet

Respondent Clean Harbors Deer Park, LLC
Case ID No. 41137
Reg. Ent. Reference No. RN102184173
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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)	$150,000	25-Jan-2011	31-Mar-2012	1.18	$8,856	n/a	$8,856
Notes for DELAYED costs	Estimated cost to install diffusers and other treatment equipment. 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 $150,000

TOTAL $8,856

EFFLUENT VIOLATION TABLE		
Clean Harbors Deer Park, LLC TPDES Permit No. WQ0001429000 Docket No. 2011-0253-IWD-E		
	Months	
	October 2010	**November 2010**
Total Cadmium Daily Average Loading Limit = 0.14 lbs/day	0.52	0.34
Total Cadmium Daily Maximum Loading Limit =0.30 lbs/day	1.01	0.59
Total Nickel Daily Average Loading Limit =0.19 lbs/day	0.33	c
Total Nickel Daily Maximum Loading Limit = 0.39 lbs/day	0.79	0.64
Total Selenium Daily Average Loading Limit = 0.27 lbs/day	0.85	0.47
Total Selenium Daily Maximum Loading Limit =0.58 lbs/day	3.02	0.83
Total Silver Daily Average Loading Limit =0.04 lbs/day	0.06	c
Total Silver Daily Maximum Loading Limit = 0.08	0.13	0.09
Total Zinc Daily Average Loading Limit = 1.25 lbs/day	2.49	1.79
Total Zinc Daily Maximum Loading Limit = 2.65 lbs/day	4.10	3.02

lbs/day = pounds per day
mg/L = milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator: CN601558802 Clean Harbors Deer Park, LLC Classification: AVERAGE Rating: 2.70

Regulated Entity: RN102184173 CLEAN HARBORS DEER PARK Classification: AVERAGE Site Rating: 2.70

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0633R
AIR OPERATING PERMITS	PERMIT	1566
USED OIL	REGISTRATION	A85951
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	50089
INDUSTRIAL AND HAZARDOUS WASTE	PERMIT	50089
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD055141378
INDUSTRIAL AND HAZARDOUS WASTE	PERMIT	50089
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD055141378
WASTEWATER	PERMIT	WQ0001429000
WASTEWATER	EPA ID	TX0005941
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	32778
AIR NEW SOURCE PERMITS	PERMIT	1953
AIR NEW SOURCE PERMITS	PERMIT	1960
AIR NEW SOURCE PERMITS	PERMIT	5064
AIR NEW SOURCE PERMITS	REGISTRATION	42408
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0633R
AIR NEW SOURCE PERMITS	AFS NUM	4820100172
AIR NEW SOURCE PERMITS	REGISTRATION	33485
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1013094
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	50089
POLLUTION PREVENTION PLANNING	ID NUMBER	P00589
STORMWATER	PERMIT	TXR15RB21
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	HG0633R

Location: 2027 INDEPENDENCE PARKWAY SOUTH, SOUTH OF TIDAL RD, WEST OF STATE HWY 134, AND EAST OF AND ADJACENT TO TUCKER BAYOU, LA PORTE, HARRIS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 05, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 05, 2006 to April 05, 2011

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

Name: JR Cao Phone: (512) 239-2543

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator?

   N/A
4. If Yes, who was/were the prior owner(s)/operator(s)?

   N/A
5. When did the change(s) in owner or operator occur?

   N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 04/05/2009 ADMINORDER 2008-1624-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(B)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
30 TAC Chapter 122, SubChapter B 122.146(1)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: FOP O-01566, Gen. Terms & Conditions OP

Description: Failed to submit a PCC and SDR within 30 days of the end of the reporting period, and submit all instances of deviations. Specifically, the Respondent submitted the PCC for the October 29, 2006 through October 28, 2007 reporting period, and the SDR for the April 29, 2007 through October 28, 2007 reporting period on July 31, 2008. The PCC and SDR were 246 days late.

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	04/26/2006 (457261)	18	12/22/2006 (544523)	34	05/19/2008 (665058)
2	08/18/2006 (484628)	19	05/31/2007 (558205)	35	05/19/2008 (665314)
3	08/18/2006 (484630)	20	04/26/2007 (553978)	36	05/28/2008 (670663)
4	08/18/2006 (484635)	21	04/26/2007 (556212)	37	02/22/2008 (672037)
5	05/01/2006 (498203)	22	05/01/2007 (556236)	38	04/01/2008 (672038)
6	05/30/2006 (498204)	23	09/13/2007 (573524)	39	04/18/2008 (672039)
7	06/27/2006 (498205)	24	02/27/2007 (575317)	40	04/18/2008 (672040)
8	01/26/2007 (512905)	25	03/28/2007 (575318)	41	04/18/2008 (672041)
9	11/09/2006 (517343)	26	04/27/2007 (575319)	42	04/03/2008 (672042)
10	11/01/2006 (517350)	27	05/29/2007 (575320)	43	01/23/2008 (672043)
11	07/27/2006 (520216)	28	06/28/2007 (575321)	44	10/21/2008 (682600)
12	08/31/2006 (520217)	29	07/27/2007 (575322)	45	06/20/2008 (689956)
13	05/23/2007 (538382)	30	01/29/2007 (575323)	46	06/20/2008 (689957)
14	06/07/2007 (538382)	31	08/28/2007 (601621)	47	08/28/2008 (699742)
15	10/02/2006 (544520)	31	09/28/2007 (601622)	48	01/30/2009 (702746)
16	10/30/2006 (544521)	32	11/26/2007 (619521)	49	09/19/2008 (710736)
17	11/27/2006 (544522)	33	05/16/2008 (640167)	50	10/20/2008 (710737)

51	09/19/2008	(710738)	67	08/24/2010	(790216)	83	10/10/2010	(870304)
52	08/20/2008	(710739)	68	02/23/2010	(804664)	84	11/02/2010	(870591)
53	12/19/2008	(727484)	69	07/22/2009	(804665)	85	11/02/2010	(871659)
54	04/14/2009	(736249)	70	09/22/2009	(804666)	86	09/22/2010	(873902)
55	05/05/2009	(737271)	71	10/22/2009	(804667)	87	01/03/2011	(879045)
56	06/23/2009	(741475)	72	11/23/2009	(804668)	88	01/11/2011	(879059)
57	06/23/2009	(741630)	73	11/30/2009	(804669)	89	02/16/2011	(879062)
58	02/20/2009	(750271)	74	01/22/2010	(804670)	90	12/09/2010	(879316)
59	03/19/2009	(750272)	75	06/25/2010	(825316)	91	12/01/2010	(881503)
60	04/20/2009	(750273)	76	06/17/2010	(825317)	92	09/22/2010	(888031)
61	03/19/2009	(750274)	77	03/22/2010	(830887)	93	01/28/2011	(893069)
62	07/20/2009	(762570)	78	04/22/2010	(830888)	94	12/17/2010	(896242)
63	08/11/2009	(764748)	79	05/20/2010	(845060)	95	01/24/2011	(902306)
64	06/15/2009	(768369)	80	06/18/2010	(846270)	96	03/18/2011	(906446)
65	06/15/2009	(768370)	81	07/22/2010	(860864)			
66	09/23/2009	(776542)	82	08/23/2010	(866831)			

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

Date: 03/05/2006 (449568) CN601558802
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.214(a)(1)(C)

Description: Failure to ensure that in-plant tank trucks loaded with gasoline and other volatile organic compounds had valid VIK inspections.
Self Report? NO Classification: Minor
Citation: # 5064 and N001, SC # 17F PERMIT
5064 SC 24 B PERMIT
30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to provide 30 day advance notification to the agency.
Self Report? NO Classification: Moderate
Citation: # 5064 and N001, SC 42 PERMIT
30 TAC Chapter 116, SubChapter B 116.115(c)
Description: Failure to keep the operations of emergency water pump G-1 within 50 hours per year allowed by the permit in 2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
NSR Permit # 5064, SC 9B PERMIT
Description: Failure to have the Selective Catalytic Reduction system operational by the required date.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)(1)(C)
Description: Failure to update the air permit # 5064 for the increase in fugitive components at the site.

Date: 07/17/2006 (484628)
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 264.171
Permit Section V.B.2. PERMIT
Description: A container holding hazardous was leaking

Date: 07/19/2006 (484628)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.173

Description: Containers holding hazardous were not closed
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)
Permit Section V.A.1. PERMIT
Description: Permitted units were not clearly identified as numbered specified in the permit. permitted units must be clearly identified as numbered specified in the permit.

Date: 07/31/2006 (520217) CN603661828
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: 08/18/2006 (484628)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(13)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT O 264.345(b)
Permit Section V.H.b. PERMIT
Description: Failure to comply with operating parameters set by the permit.

Date: 01/26/2007 (512905) CN601558802
Self Report? NO Classification: Moderate
Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)
CP No. 50089, III.E.2. ref. Attchment B IHWPERMTCP
Description: Failure to maintain monitoring wells

Date: 05/29/2007 (558205) CN603661828
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)
Description: Failure to test a well that is not in use and is non-deteriorated every five years or as required by the executive director to prove that it is in a non-deteriorated condition.

Date: 06/08/2007 (538382) CN601558802
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THC Chapter 382, SubChapter A 382.085(b)
FOP O-01566, General Terms & Conditions OP
Description: Failure to submit the Deviation Report within the required time frame.

Date: 07/31/2007 (601621) CN603661828
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: 08/23/2007 (573524) CN603661828
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)
Description: Failure to test a well that is not in use and is non-deteriorated every five years or as required by the executive director to prove that it is in a non-deteriorated condition.

Date: 01/31/2008 (672037) CN603661828
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: 02/29/2008 (672038) CN603661828

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: 06/30/2008 (672041) CN603661828
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: 08/31/2008 (710736) CN603661828

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: 09/30/2008 (710737) CN603661828
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 (710739) CN603661828
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: 04/08/2009 (736249) CN603661828
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements, pg. 13, no. 3 PERMIT
Description: Failure to provide secondary treatment for domestic wastewater at the domestic wastewater treatment plant. There were very few microorganisms in the aeration basin at the time of the investigation. Untreated domestic sewage was discharging to the process wastewater treatment plant. The plant must be reseeded and any needed repairs must be made so the plant can provide adequate treatment.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements, pg. 13, no. 3 PERMIT
Description: Failure to maintain compliance with permit effluent limits for chlorine at the domestic wastewater treatment plant. The chlorine residual was 0.1 mg/L, at the time of the investigation. The permit limit for chlorine residual is greater than or equal to 1.0 mg/L.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Other Requirements, pg. 13, no. 3 PERMIT
Description: Failure to meet the effluent permit limit for Total Suspended Solids (TSS) at the domestic wastewater treatment plant. The effluent TSS concentration was 144 mg/L, at the time of the investigation. The permit limit for TSS is 65 mg/L.

Date: 04/30/2009 (750274) CN603661828
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: 05/05/2009 (737271) CN601558802
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 1, SubChapter C, PT 61, SubPT V 61.242-6(a)(1)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP
Special Condition 26 E PERMIT
Special Terms and Conditions 20 OP

Description: Failure to seal open ended lines containing volatile organic compounds. (CATEGORY C4 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions OP

Description: Failure to report all deviations in the deviation reports. (CATEGORY B3 violation)

Date: 06/30/2009 (804665) CN603661828

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: 10/31/2009 (804668) CN603661828

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: 12/31/2009 (804670) CN603661828

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: 05/31/2010 (846270) CN603661828

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: 08/24/2010 (790216) CN601558802

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Part 61, Subpart V 61.242-6
5C THSC Chapter 382 382.085(b)
Special Condition 26E PERMIT
Special Terms and Conditions 20 OP

Description: Failure to ensure that all open-ended lines were equipped with either a cap, blind flange or a second valve in EPN FU-1 on December 5, 2008 and in EPN E-4-1on March 10, 2009. [Category C10]

Date: 08/31/2010 (873902) CN603661828

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: 09/30/2010 (881503) CN603661828

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: 10/31/2010 (888031) CN603661828

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: 11/09/2010 (871659) CN601558802

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(e)
5C THSC Chapter 382 382.085(b)

Description: Clean Harbors failed to report Incident No. 145016 within 24 hours of discovery.

Date: 11/30/2010 (896242) CN603661828

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: 12/31/2010 (902306) CN603661828

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: 02/16/2011 (879062)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
PROVISION II.C.1.i. PERMIT

Description: Failure to update the Notice of Registration.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.15(b)(1)
PROVISION III.D. PERMIT

Description: Failure to follow the inspection schedule as outlined in the hazardous waste permit.

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 CLEAN HARBORS DEER PARK, LLC RN102184173	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0253-IWD-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 Clean Harbors Deer Park, LLC ("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, represented by Allen Beinke of the law firm of Tuggey Rosenthal Pauerstein Sandoloski Agather Strategy Partners, appear before the Commission and together stipulate that:

1. The Respondent owns and operates an industrial and hazardous waste treatment, storage, and disposal facility located at 2027 Independence Parkway South, south of Tidal Road, west of State Highway 134, and east of and adjacent to Tucker Bayou in La Porte, 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. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 2, 2011.

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 Twenty-Three Thousand Nine Hundred Dollars ($23,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Five Hundred Sixty Dollars ($9,560) and Four Thousand Seven Hundred Eighty Dollars ($4,780) 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. Nine Thousand Five Hundred Sixty Dollars ($9,560) 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 has implemented the following corrective measures at the Facility:

   a. By June 18, 2009, submitted an amended renewal application for Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001429000; and

   b. By January 13, 2011, initiated construction of a discharge pipeline to a new effluent outfall and diffuser.

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 failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0001429000 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on January 25, 2011 and shown in the following effluent violation table:

EFFLUENT VIOLATION TABLE		
	Months	
	October 2010	November 2010
Total Cadmium Daily Average Loading Limit = 0.14 lbs/day	0.52	0.34
Total Cadmium Daily Maximum Loading Limit =0.30 lbs/day	1.01	0.59
Total Nickel Daily Average Loading Limit =0.19 lbs/day	0.33	c
Total Nickel Daily Maximum Loading Limit = 0.39 lbs/day	0.79	0.64
Total Selenium Daily Average Loading Limit = 0.27 lbs/day	0.85	0.47
Total Selenium Daily Maximum Loading Limit =0.58 lbs/day	3.02	0.83
Total Silver Daily Average Loading Limit =0.04 lbs/day	0.06	c
Total Silver Daily Maximum Loading Limit = 0.08	0.13	0.09
Total Zinc Daily Average Loading Limit = 1.25 lbs/day	2.49	1.79
Total Zinc Daily Maximum Loading Limit = 2.65 lbs/day	4.10	3.02

lbs/day = pounds per day
mg/L = milligrams per liter

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: Clean Harbors Deer Park, LLC, Docket No. 2011-0253-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 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Nine Thousand Five Hundred Sixty Dollars ($9,560) 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 completions 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, and on a quarterly basis thereafter, submit a report to the Commission, documenting the progress of the construction project. The reports shall be submitted to the addresses listed in Ordering Provision No. 3.d below and shall be submitted on a quarterly basis until written certification of compliance with Ordering Provision No. 3.b is submitted;

   b. By November 30, 2011, submit written certification, in accordance with Ordering Provision No. 3.d below, that construction of the discharge pipeline, the new effluent outfall, and diffuser have been completed;

   c. By March 31, 2012, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0001429000, 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, in accordance with Ordering Provision No. 3.d below; and

d. The certification required by these Ordering Provisions shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.b 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
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. 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

_____ 7/31/2011
For the Executive Director Date

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

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

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

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

_____ June 22, 2011
Signature Date

Phillip G. Retzlick Senior Vice President
Name (Printed or typed) Title
Authorized Representative of
Clean Harbors Deer Park, LLC

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: 2011-0253-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Clean Harbors Deer Park, LLC**
Payable Penalty Amount:	**Nineteen Thousand One Hundred Twenty Dollars ($19,120)**
SEP Amount:	**Nine Thousand Five Hundred Sixty Dollars ($9,560)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Galveston Bay Foundation-"Marsh Mania"**
Location of SEP:	**Harris 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 Galveston Bay Foundation to be used for the Galveston Bay Foundation "Marsh Mania" as set forth in the agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

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 providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

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:

Mr. Bob Stokes, President
Galveston Bay Foundation
17330 Highway 3
Webster, Texas 77598

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:

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

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

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.