

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1536-AIR-E **TCEQ ID:** RN100248749 **CASE NO.:** 40423  
**RESPONDENT NAME:** Southwest Shipyard, L.P.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input checked="" 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 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> Southwest Shipyard, 18310 Market Street, Channelview, Harris County</p> <p><b>TYPE OF OPERATION:</b> Ship cleaning and repair plant</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 one additional pending enforcement action regarding this facility location, Docket No. 2010-1129-PWS-E.</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 January 31, 2011. 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> Ms. Kimberly Morales, Enforcement Division, Enforcement Team 5, MC R-12, (713) 422-8938; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Jack Holmes, Director of Environmental Services, Southwest Shipyard, L.P., 18310 Market Street, Channelview, Texas 77530  Mr. Anand Ramamurthy, Executive Vice President, Southwest Shipyard, L.P., 18310 Market Street, Channelview, Texas 77530  <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> July 5, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 12, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>AIR</b></p> <p>Failed to operate within the abrasive usage rate limits of 150 tons per year ("tpy"), 15 tons per month ("tpm"), and one ton per day ("tpd") for EPN FU-4 during outdoor dry abrasive cleaning operations. Specifically, from January 1, 2009 through December 31, 2009, the Respondent exceeded the one tpd rate limit for 31 days by an average of 1.64 tpd, the 15 tpm rate limit for two months by an average of 7.61 tpm, and the 150 tpy rate limit of for eight months by an average of 14.84 tpy [30 TEX. ADMIN. CODE §§ 106.452(2)(A) and 122.143(4); Permit-by-Rule Registration No. 35353; Federal Operating Permit No. O-1260, Special Terms and Conditions No. 12A; and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$46,900</p> <p><b>Total Deferred:</b> \$9,380  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$18,760</p> <p><b>Total Paid to General Revenue:</b> \$18,760</p> <p><b>Compliance History Classifications:</b>                      Person/CN - Average                      Site/RN - Average</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted a PI-7 registration form on April 9, 2010 to change the outdoor abrasive cleaning operation to an indoor operation under 30 TEX. ADMIN. CODE § 106.452(1). TCEQ authorized the change in a letter dated June 2, 2010. The Respondent now conducts dry abrasive cleaning in an enclosed facility, which is not subject to abrasive usage rate limits.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): HGo686T

**Attachment A**  
**Docket Number: 2010-1536-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Southwest Shipyard, L.P.

**Payable Penalty Amount:** Thirty-Seven Thousand Five Hundred Twenty Dollars (\$37,520)

**SEP Amount:** Eighteen Thousand Seven Hundred Sixty Dollars (\$18,760)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Barbers Hill Independent School District-Alternative Fueled Vehicle and Equipment Program

**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 **Barbers Hill Independent School District** for the **Alternative Fueled Vehicle and Equipment Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to retire current diesel-powered or gasoline powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled vehicles and equipment; convert current vehicles and equipment to alternative-fueled equipment; or retrofit current gasoline or diesel-powered equipment.

SEP funds will only be used for the incremental costs of purchase of clean fuel or lower-emission vehicles or retrofit of existing vehicles and for the purchase of these cleaner burning fuels.

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 reducing air pollution emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by older vehicles.

C. Minimum Expenditure

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:

John Johnson  
Carl Griffith & Associates, Inc.  
2901 Turtle Creek Drive, Suite 101  
Port Arthur, Texas 77642

**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**

<b>DATES</b>	<b>Assigned</b> 16-Aug-2010	<b>Screening</b> 20-Sep-2010	<b>EPA Due</b> 9-May-2011
	<b>PCW</b> 13-Oct-2010		

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Southwest Shipyard, L.P.		
<b>Reg. Ent. Ref. No.</b>	RN100248749		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40423	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1536-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Kimberly Morales
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$10,000
---	-------------------	----------

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

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

<b>Compliance History</b>	394.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$39,400
---------------------------	--------------------	--------------------------------	----------

Notes: Enhancement for one NOV with same/similar violations, 60 NOVs with dissimilar violations, one agreed order containing a denial of liability, two agreed orders without a denial of liability, and a criminal conviction with four counts. Reduction for one notice of audit letter submitted.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$2,500
--	-------------------	---------

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts \$354  
 Approx. Cost of Compliance \$5,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$46,900
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$46,900
-----------------------------	----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$46,900
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$9,380
-----------------	-----------------	-------------------	----------

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

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$37,520
------------------------	----------

Screening Date 20-Sep-2010

Docket No. 2010-1536-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 40423

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator Kimberly Morales

### 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 ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	60	120%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	4	200%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 394%

>> 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 same/similar violations, 60 NOVs with dissimilar violations, one agreed order containing a denial of liability, two agreed orders without a denial of liability, and a criminal conviction with four counts. Reduction for one notice of audit letter submitted.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 394%

Screening Date 20-Sep-2010

Docket No. 2010-1536-AIR-E

PCW

Respondent Southwest Shipyard, L.P.

Policy Revision 2 (September 2002)

Case ID No. 40423

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100248749

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 106.452(2)(A) and 122.143(4); Permit-by-Rule Registration No. 35353; Federal Operating Permit No. O-1260, Special Terms and Conditions No. 12A; and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to operate within the abrasive usage rate limits of 150 tons per year ("tpy"), 15 tons per month ("tpm"), and one ton per day ("tpd") for EPN FU-4 during outdoor dry abrasive cleaning operations. Specifically, from January 1, 2009 through December 31, 2009, the Respondent exceeded the one tpd rate limit for 31 days by an average of 1.64 tpd, the 15 tpm rate limit for two months by an average of 7.61 tpm, and the 150 tpy rate limit of for eight months by an average of 14.84 tpy.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4

364 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Four quarterly events are recommended based on the exceedances from January through December 2009.

Good Faith Efforts to Comply

25.0% Reduction

\$2,500

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent completed corrective actions by June 2, 2010, prior to the August 12, 2010 NOE.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$354

Violation Final Penalty Total \$46,900

This violation Final Assessed Penalty (adjusted for limits) \$46,900

# Economic Benefit Worksheet

**Respondent** Southwest Shipyard, L.P.  
**Case ID No.** 40423  
**Reg. Ent. Reference No.** RN100248749  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Jan-2009	2-Jun-2010	1.42	\$354	n/a	\$354

Notes for DELAYED costs

Estimated cost to amend the permit to ensure compliance with the abrasive usage limits. The Date Required is the start date of the violation. The Final Date is the date corrective actions were completed.

### 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**

\$354

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600135354 Southwest Shipyard, L.P.	Classification: AVERAGE	Rating: 12.96
Regulated Entity:	RN100248749 SOUTHWEST SHIPYARD	Classification: AVERAGE	Site Rating: 28.38

ID Number(s):	Description	Type	ID Number
	WASTE WATER GENERAL PERMIT	PERMIT	2E0000020
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0686T
	AIR OPERATING PERMITS	PERMIT	1260
	WASTEWATER	PERMIT	WQ0002605000
	WASTEWATER	EPA ID	TX0092282
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	59001
	AIR NEW SOURCE PERMITS	PERMIT	4759
	AIR NEW SOURCE PERMITS	PERMIT	9442
	AIR NEW SOURCE PERMITS	REGISTRATION	12182
	AIR NEW SOURCE PERMITS	REGISTRATION	23134
	AIR NEW SOURCE PERMITS	REGISTRATION	34783
	AIR NEW SOURCE PERMITS	PERMIT	36241
	AIR NEW SOURCE PERMITS	REGISTRATION	35698
	AIR NEW SOURCE PERMITS	REGISTRATION	35353
	AIR NEW SOURCE PERMITS	PERMIT	43774
	AIR NEW SOURCE PERMITS	REGISTRATION	43909
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0686T
	AIR NEW SOURCE PERMITS	REGISTRATION	54007
	AIR NEW SOURCE PERMITS	REGISTRATION	75783
	AIR NEW SOURCE PERMITS	AFS NUM	4820100826
	AIR NEW SOURCE PERMITS	REGISTRATION	55646
	AIR NEW SOURCE PERMITS	REGISTRATION	75319
	AIR NEW SOURCE PERMITS	REGISTRATION	77255
	AIR NEW SOURCE PERMITS	REGISTRATION	78546
	AIR NEW SOURCE PERMITS	REGISTRATION	81480
	AIR NEW SOURCE PERMITS	REGISTRATION	84578
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012781
	STORMWATER	PERMIT	TXR05V732
	WASTEWATER LICENSING	LICENSE	WQ0002605000
	WATER LICENSING	LICENSE	1012781
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	31208
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD000820274
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	31208

Location: 18310 MARKET ST, CHANNELVIEW, TX, 77530

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 30, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 30, 2005 to August 30, 2010

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

Name: Kimberly Morales Phone: (713) 422-8938

### 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: 9/1/2009 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: 04/13/2007

ADMINORDER 2005-0097-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(B)

Rqmt Prov: O-01260, General Terms and Conditions OP

Description: Failure to submit deviation reports for 2004 and for the first semiannual reporting period of 2005.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: 9442, SC 11D PERMIT  
O-01260, SC 10 OP

Description: Failed to install a continuous run time flow monitor to record average hourly values of flow and composition for FL-1 and FL-3.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: 36241, SC 10C PERMIT  
O-01260, SC 10 OP

Description: Failed to record and develop and accurate monthly report for VOC emissions in pounds per hour lbs/hr on a daily basis for Barge Rail Painting facility.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: 43774, SC 16E PERMIT  
O-01260, SC 10 OP

Description: Failed to record and develop an accurate monthly report for VOC emissions in lbs/hr on a daily basis for DD1, DD2 and DD3STK.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EF and MR No. 1 OP

Description: Failure to comply with the permitted effluent limits at Outfall 001 for the months of March 2003, July 2003, October 2003, November 2003, December 2003, January 2004 and February 2004.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL and MR NO. 1 OP

Description: Failure to comply with permitted effluent limits at Outfall 003. Specifically, Southwest was non-compliant with the Total Suspended Solids ("TSS") daily average limit of 50 milligrams per liter ("mg/L") for February 2004 with a reported value of 62 mg/L.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL and MR NO. 1 OP

Description: Failure to comply with the permitted effluent limits at Outfall 004 for the months of March 2003, May 2003, November 2003, December 2003, and February 2004.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL and MR NO. 1 OP

Description: Failure to comply with the permitted effluent limits at Outfall 005. Specifically, Southwest was non-compliant with the TSS daily average limit of 50 mg/L for August 2003 with a reported value of 90 mg/L.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL and MR No. 1 OP

Description: Failure to comply with the Ammonia Nitrogen effluent limit of 6 mg/L at Outfall 001. Specifically, grab samples taken indicated the following ammonia nitrogen levels: 17 mg/L on July 10, 2001; 10.8 mg/L on October 1, 2001; and 11.2 mg/L on September 27, 2002.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EL & MR No. 1 OP

Description: Failure to comply with the permitted effluent limits at Outfall 006. Specifically, Southwest was non-compliant with the Chemical Oxygen Demand daily maximum limit of 150 mg/L for April 2003 with a reported value of 178 mg/L.

Effective Date: 06/05/2008

ADMINORDER 2007-0794-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01260, SC10.A. OP  
Permit No. 9442, SC8 PERMIT

Description: Failure to route all emissions from barge cleaning operations to a vapor collection system.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01260, SC10.A. OP

Description: Failure to operate according to representations made in the permit application for New Source Review Permit No. 9442.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01260, SC10.A. OP  
Permit No. 9442, SC14 PERMIT

Special Condition 15(H) PERMIT

Description: Failure to maintain the maximum loading rate limit of 300 gallons per hour.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter F 115.542(b)(2)  
30 TAC Chapter 115, SubChapter F 115.542(b)(3)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01260, SC6.A.(ii) OP  
Special Condition 8 PERMIT

Description: Failure to design and operate degassing and cleaning equipment top prevent VOC leaks.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01260, SC10.A. OP

Description: Failure to operate according to representations made in the 2000 permit application for New Source Permit No. 9442.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 9442, SC8 PERMIT  
O-01260, SC10A OP

Description: Failure to route emissions from barge cleaning operations to a vapor collection system.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: O-01260, SC 10.A. OP

Description: Failure to operate according to representations made in the 2000 permit application for New Source Review Permit No. 9442.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: 9442, SC 8 PERMIT  
O-01260, SC 10.A. OP

Description: Failure to route emissions from barge cleaning operations to a vapor collection system.

Effective Date: 05/09/2010

ADMINORDER 2009-1207-IWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Requirements Nos. 1, 2, and 3 PERMIT

Description: Failure to comply with effluent limits of TPDES Permit No. WQ0002605000.

B. Any criminal convictions of the state of Texas and the federal government.

Conviction Date: 2/15/2007 12:00:00AM

Type of Action: COURTORDER

Classification: Moderate

Rqmt Prov:

Citation: 2A TWC Chapter 7, SubChapter A 7.147

Description: On February 15, 2007, Southwest Shipyard plead guilty to 3 felony counts and 1 misdemeanor count of an unauthorized discharge in violation of the TWC. Southwest Shipyard was assessed a \$350,000 fine. The charge was based on the illegal discharge of industrial waste into the Houston Ship Channel.

Classification: Major

Rqmt Prov:

Citation: 2A TWC Chapter 7, SubChapter A 7.145

Description: On February 15, 2007, Southwest Shipyard plead guilty to 3 felony counts and 1 misdemeanor count of an unauthorized discharge in violation of the TWC. Southwest Shipyard was assessed a \$350,000 fine. The charge was based on the illegal discharge of industrial waste into the Houston Ship Channel.

Classification: Major

Rqmt Prov:

Citation: 2A TWC Chapter 7, SubChapter A 7.145

Description: On February 15, 2007, Southwest Shipyard plead guilty to 3 felony counts and 1 misdemeanor count of an unauthorized discharge in violation of the TWC. Southwest Shipyard was assessed a \$350,000 fine. The charge was based on the illegal discharge of industrial waste into the Houston Ship Channel.

Classification: Major

Rqmt Prov:

Citation: 2A TWC Chapter 7, SubChapter A 7.145

Description: On February 15, 2007, Southwest Shipyard plead guilty to 3 felony counts and 1 misdemeanor count of an unauthorized discharge in violation of the TWC. Southwest Shipyard was assessed a \$350,000 fine. The charge was based on the illegal discharge of industrial waste into the Houston Ship Channel.

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	09/08/2005	(418359)
2	09/08/2005	(418488)
3	09/23/2005	(445849)
4	09/23/2005	(445850)
5	10/24/2005	(477804)
6	11/28/2005	(477805)
7	12/06/2005	(435708)
8	12/27/2005	(477806)
9	01/20/2006	(477807)
10	02/13/2006	(439838)
11	02/24/2006	(477802)
12	03/23/2006	(477803)
13	04/24/2006	(504260)
14	04/24/2006	(504263)
15	05/23/2006	(504261)
16	06/21/2006	(504262)
17	06/30/2006	(464066)
18	08/22/2006	(526607)
19	09/07/2006	(511322)
20	10/24/2006	(550776)
21	11/27/2006	(550777)
22	11/27/2006	(550778)
23	11/29/2006	(511970)
24	01/18/2007	(587094)
25	02/15/2007	(572090)
26	02/26/2007	(587088)
27	03/23/2007	(587089)
28	03/23/2007	(587093)
29	04/16/2007	(543446)
30	04/23/2007	(587090)
31	05/07/2007	(540997)
32	05/10/2007	(541065)
33	05/23/2007	(587091)
34	06/06/2007	(561260)
35	06/20/2007	(564230)
36	06/25/2007	(587092)
37	06/27/2007	(565356)
38	06/29/2007	(543322)
39	07/30/2007	(558312)

40 08/22/2007 (604911)  
41 09/06/2007 (559858)  
42 09/24/2007 (604912)  
43 09/24/2007 (604913)  
44 09/24/2007 (604914)  
45 11/26/2007 (625940)  
46 11/29/2007 (610012)  
47 12/11/2007 (611342)  
48 12/27/2007 (625941)  
49 01/22/2008 (675811)  
50 02/19/2008 (617789)  
51 02/25/2008 (694162)  
52 03/25/2008 (675808)  
53 03/25/2008 (675809)  
54 03/25/2008 (675810)  
55 05/22/2008 (694163)  
56 06/16/2008 (682820)  
57 06/27/2008 (694164)  
58 07/09/2008 (685423)  
59 08/14/2008 (681552)  
60 08/28/2008 (715551)  
61 11/18/2008 (731273)  
62 01/05/2009 (731275)  
63 01/14/2009 (731274)  
64 01/23/2009 (754565)  
65 03/25/2009 (723751)  
66 04/10/2009 (703406)  
67 04/28/2009 (771826)  
68 04/28/2009 (771829)  
69 05/05/2009 (771827)  
70 05/14/2009 (745115)  
71 05/28/2009 (771828)  
72 06/18/2009 (815481)  
73 07/17/2009 (815482)  
74 07/23/2009 (742713)  
75 08/07/2009 (763643)  
76 09/21/2009 (776740)  
77 10/19/2009 (815484)  
78 11/16/2009 (777565)  
79 11/23/2009 (815485)  
80 11/30/2009 (815486)  
81 01/20/2010 (815487)  
82 01/25/2010 (815488)  
83 02/03/2010 (789179)  
84 02/22/2010 (815480)  
85 03/19/2010 (815483)  
86 03/20/2010 (834614)  
87 04/20/2010 (834615)  
88 04/22/2010 (794437)  
89 05/03/2010 (799745)  
90 05/20/2010 (834616)  
91 05/25/2010 (824478)  
92 05/26/2010 (824560)  
93 05/26/2010 (824565)  
94 05/26/2010 (824577)  
95 05/26/2010 (824592)  
96 05/26/2010 (824596)  
97 05/26/2010 (824602)  
98 06/11/2010 (824748)

99 06/16/2010 (827097)  
100 06/18/2010 (847415)  
101 08/12/2010 (800871)  
102 08/26/2010 (850591)

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

Date: 08/31/2005 (445849) CN600135354  
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: 09/30/2005 (477804) CN600135354  
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: 10/31/2005 (477805) CN600135354  
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: 11/30/2005 (477806) CN600135354  
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: 12/06/2005 (435708)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
No. 02605 Pages 2-2d PERMIT  
Description: Failure to maintain compliance with the permitted effluent limits for carbonaceous biochemical oxygen demand (CBOD), total suspended solids (TSS), ammonia-nitrogen (NH3-N), nickel (Ni), silver, phenols, total petroleum hydrocarbons (TPH), total chlorine residual (Cl2 res.), and dissolved oxygen (DO).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
No. 02605 Page 5, no. 7c PERMIT  
Description: Failure to provide effluent violation notification letters in accordance with the permit requirements and applicable State regulations.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)  
No. 02605 Page 2, No. 4 PERMIT  
Description: Failure to monitor the effluent pH at outfall 001 at the frequency specified in the permit.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
No. 02605 Page 3, No. 1b PERMIT  
Description: Failure to accurately calculate and report the daily average flows.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
No. 02605 Page 18, No. 3 PERMIT  
No. 02605 Page 2, No.1 PERMIT  
Description: Failure to report all of the required values on the Discharge Monitoring Reports (DMRs).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)  
Description: Failure to store biomonitoring samples at 4 degrees C.

Date: 01/31/2006 (477802) CN600135354  
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: 02/28/2006 (477803) CN600135354  
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: 03/31/2006 (504260) CN600135354  
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: 04/30/2006 (504261) CN600135354  
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: 05/31/2006 (504262) CN600135354  
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: 06/30/2006 (504263) CN600135354  
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: 07/31/2006 (526607) CN600135354  
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: 08/31/2006 (445850) CN600135354  
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: 09/30/2006 (550776) CN600135354  
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: 10/31/2006 (550777) CN600135354  
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: 11/30/2006 (587094) CN600135354  
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: 12/31/2006 (550778) CN600135354  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007 (587088) CN600135354  
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: 02/28/2007 (587089) CN600135354  
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: 03/31/2007 (587090) CN600135354  
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: 04/16/2007 (543446)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)  
Description: Failure to provide erosion control measures for the storm water outfalls.

Date: 04/30/2007 (587091) CN600135354  
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: 05/31/2007 (587092)  
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: 06/30/2007 (587093)  
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: 07/31/2007 (604911) CN600135354  
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: 07/31/2007 (558312)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 116, SubChapter F 116.617  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter D 382.085(b)  
O-01260, SC 10.A. OP  
Description: Failure to record the operating parameters of the thermal oxidizer (TO-1).

Date: 08/31/2007 (604912)  
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: 09/30/2007 (604914)  
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: 10/31/2007 (625940) CN600135354  
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: 11/30/2007 (625941)  
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: 12/31/2007 (675811) CN600135354  
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: 01/31/2008 (694162)  
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 (675808) CN600135354  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2008 (675809) CN600135354  
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: 05/31/2008 (694164)  
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 (675810)  
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: 07/31/2008 (715551)  
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: 08/14/2008 (681552)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THSC Chapter 382 382.085(b)  
O-01260 General Terms and Conditions OP  
Description: Failure to submit PCC within 30 day time limit.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
5C THSC Chapter 382 382.085(b)  
O-01260 General Terms and Conditions OP  
Description: Failure to submit deviation report within 30 day time limit.

Date: 08/31/2008 (604913)  
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 (731273)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2008 (731274) CN600135354  
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 (754565)  
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 (731275) CN600135354  
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 (771826)  
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 (771827)  
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 (771828) CN600135354  
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: 04/10/2009 (703406) CN600135354  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP Spec. Cond 12 OP  
NSR Spec. Cond. 1 PERMIT

Description: Failure to complete monthly emissions report.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter T 106.452(2)(A)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
FOP Spec. Cond. 13 OP

Description: Failure to maintain abrasive use below permitted limits.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
NSR Spec. Cond. 1 PERMIT  
Spec. Cond. 12 OP

Description: Failure to control excessive nitrogen oxide and carbon monoxide emissions.  
Self Report? NO Classification: Minor

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)  
Gen. Terms & Cond. OP

Description: Failure to submit complete and accurate deviation report.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.310(f)  
5C THSC Chapter 382 382.085(b)

Description: Failure to conduct engine testing at the proper time.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.345(f)(10)  
5C THSC Chapter 382 382.085(b)

Description: Failure to maintain records of engine testing.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(5)(C)

5C THSC Chapter 382 382.085(b)  
Gen. terms & Cond. OP  
Description: Failure to submit complete annual compliance certification  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter E 115.421(a)(15)(A)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT II 63.783(a)  
5C THSC Chapter 382 382.085(b)  
Spec. Cond 12 OP  
Description: Failure to maintain VOC limits below permitted levels.

Date: 04/30/2009 (815481)  
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: 05/31/2009 (815482) CN600135354  
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: 06/22/2009 (824478) CN600135354  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
5A THSC Chapter 341, SubChapter A 341.031(a)  
Description: TCR MCL Violation 06/2009 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Date: 07/14/2009 (824560) CN600135354  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
Description: TCR Repeat Monitoring Violation 05/2009 - Failure to collect all repeats following a coliform found result.

Date: 08/04/2009 (824565) CN600135354  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
Description: TCR Repeat Monitoring Violation 06/2009 - Failure to collect all repeats following a coliform found result.

Date: 08/10/2009 (763643)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
30 TAC Chapter 319, SubChapter A 319.7(c)  
Description: Failure to maintain a temperature log for the refrigerated composite sampler at Outfall 001.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)  
TPDES Permit No. 02605-000 PERMIT  
Description: Failure to conduct the pH, dissolved oxygen (D.O.), and total chlorine residual

analyses at the required frequency.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TPDES Permit No. 02605-000 PERMIT

Description: Failure to comply with the Best Management Practices (BMPs) which are required to be followed and documented in Other Requirement No. 7 of TPDES permit No. 02605-000.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TPDES Permit No. 02605-000 PERMIT

Description: Failure to comply with Other Requirement No. 9 of TPDES permit No. 02605-000.

Date: 09/16/2009 (824577) CN600135354

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 07/2009 - Failure to collect all 5 distribution samples following a coliform found month.

Date: 10/02/2009 (824592) CN600135354

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: TCR Repeat Monitoring Violation 08/2009 - Failure to collect all repeats following a coliform found result.

Date: 10/15/2009 (824602) CN600135354

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)(B)  
5A THSC Chapter 341, SubChapter A 341.031(a)

Description: TCR AMCL Violation 10/2009 - System received an Acute Maximum Contaminant Level (AMCL) Violation.

Date: 11/05/2009 (824596) CN600135354

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 09/2009 - Failure to collect all 5 distribution samples following a coliform found month.

Date: 12/08/2009 (824602) CN600135354

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: TCR Repeat Monitoring Violation 10/2009 - Failure to collect all repeats following a coliform found result.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 10/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/31/2010 (815480) CN600135354

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: 04/22/2010 (794437)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to analyze the hexavalent chromium samples from Outfall 001 within the holding time.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to accurately report mercury and total suspended solids (TSS) on the monthly Discharge Monitoring Reports (DMRs).

Self Report? NO Classification: Moderate

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

Monitoring and Reporting Requirements PERMIT

Description: Failure to submit noncompliance notification for permitted effluent limitation violations.

Self Report? NO Classification: Moderate

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

Other Requirements PERMIT

Description: Failure to comply with Other Requirement number seven, TPDES permit number 02605-000.

Self Report? NO Classification: Moderate

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

Other Requirements PERMIT

Description: Failure to comply with Other Requirement number nine, TPDES permit number 02605-000.

Self Report? NO Classification: Moderate

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

Other Requirements PERMIT

Description: Failure to comply with Other Requirement number 12, TPDES permit number 02605-000.

Date: 08/12/2010 (800871)

Self Report? NO Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.146(2)

5C THSC Chapter 382 382.085(b)

General Terms and Conditions OP

Description: Failure to submit the annual compliance certification dated January 29, 2010 no later than 30 days after the end of the of the compliance period. [Category B3]

Self Report? NO Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.145(2)(C)

5C THSC Chapter 382 382.085(b)

General Terms and Conditions OP

Description: Failure to submit the deviation reports dated July 30, 2009 and January 29, 2010 no later than 30 days after the end of the reporting period. [Category B3]

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 instances of deviations in the deviation report dated July 30, 2009. [Category B3]

F. Environmental audits.

Notice of Intent Date: 06/29/2010 (830535)

No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SOUTHWEST SHIPYARD, L.P.  
RN100248749**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2010-1536-AIR-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 Southwest Shipyard, L.P. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a ship cleaning and repair plant at 18310 Market Street in Channelview, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 17, 2010.
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 Forty-Six Thousand Nine Hundred Dollars (\$46,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eighteen Thousand Seven Hundred Sixty Dollars (\$18,760) of the administrative penalty and Nine Thousand Three Hundred

Eighty Dollars (\$9,380) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Eighteen Thousand Seven Hundred Sixty Dollars (\$18,760) 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 submitted a PI-7 registration form on April 9, 2010 to change the outdoor abrasive cleaning operation to an indoor operation under 30 TEX. ADMIN. CODE § 106.452(1). TCEQ authorized the change in a letter dated June 2, 2010. The Respondent now conducts dry abrasive cleaning in an enclosed facility, which is not subject to abrasive usage rate limits.
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 Plant, the Respondent is alleged to have failed to operate within the abrasive usage rate limits of 150 tons per year ("tpy"), 15 tons per month ("tpm"), and one ton per day ("tpd") for EPN FU-4 during outdoor dry abrasive cleaning operations, in violation of 30 TEX. ADMIN. CODE §§ 106.452(2)(A) and 122.143(4); Permit-by-Rule Registration No. 35353; Federal Operating Permit No. O-1260, Special Terms and Conditions No. 12A; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 5, 2010. Specifically, from January 1, 2009 through December 31, 2009, the Respondent exceeded the one tpd rate limit for 31 days by an average of 1.64 tpd, the 15 tpm rate limit for two months by an average of 7.61 tpm, and the 150 tpy rate limit of for eight months by an average of 14.84 tpy.

### 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: Southwest Shipyard, L.P., Docket No. 2010-1536-AIR-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

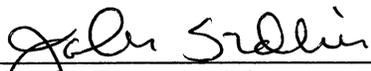
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Eighteen Thousand Seven Hundred Sixty Dollars (\$18,760) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. 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 Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

\_\_\_\_\_  
Date 1/11/2011

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 11-17-2010

Anand Ramamurthy  
Name (Printed or typed)  
Authorized Representative of  
Southwest Shipyard, L.P.

Executive Vice 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: 2010-1536-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Southwest Shipyard, L.P.

**Payable Penalty Amount:** Thirty-Seven Thousand Five Hundred Twenty Dollars (\$37,520)

**SEP Amount:** Eighteen Thousand Seven Hundred Sixty Dollars (\$18,760)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Barbers Hill Independent School District-Alternative Fueled Vehicle and Equipment Program

**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 **Barbers Hill Independent School District** for the **Alternative Fueled Vehicle and Equipment Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to retire current diesel-powered or gasoline powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled vehicles and equipment; convert current vehicles and equipment to alternative-fueled equipment; or retrofit current gasoline or diesel-powered equipment.

SEP funds will only be used for the incremental costs of purchase of clean fuel or lower-emission vehicles or retrofit of existing vehicles and for the purchase of these cleaner burning fuels.

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 reducing air pollution emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by older vehicles.

C. Minimum Expenditure

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:

John Johnson  
Carl Griffith & Associates, Inc.  
2901 Turtle Creek Drive, Suite 101  
Port Arthur, Texas 77642

**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.

**Attachment A**  
**Docket Number: 2010-1536-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Southwest Shipyard, L.P.

**Payable Penalty Amount:** Thirty-Seven Thousand Five Hundred Twenty Dollars (\$37,520)

**SEP Amount:** Eighteen Thousand Seven Hundred Sixty Dollars (\$18,760)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Barbers Hill Independent School District-Alternative Fueled Vehicle and Equipment Program

**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 **Barbers Hill Independent School District** for the **Alternative Fueled Vehicle and Equipment Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to retire current diesel-powered or gasoline powered vehicles and equipment and replace those vehicles and equipment with alternative-fueled vehicles and equipment; convert current vehicles and equipment to alternative-fueled equipment; or retrofit current gasoline or diesel-powered equipment.

SEP funds will only be used for the incremental costs of purchase of clean fuel or lower-emission vehicles or retrofit of existing vehicles and for the purchase of these cleaner burning fuels.

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 reducing air pollution emissions of particulate matter, volatile organic compounds, nitrogen oxides, and other pollutants associated with the combustion of fuel that would have been generated by older vehicles.

C. Minimum Expenditure

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:

John Johnson  
Carl Griffith & Associates, Inc.  
2901 Turtle Creek Drive, Suite 101  
Port Arthur, Texas 77642

**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.