

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO. 2009-1651-IHW-E**

**RN104468798**

**CASE NO. 38548**

**RESPONDENT NAME: MARIA MURR**

ORDER TYPE:		
<input checked="" type="checkbox"/> <b>AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	

CASE TYPE:		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA</b> (check all that apply)	<input checked="" type="checkbox"/> <b>INDUSTRIAL HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>

**SITE WHERE VIOLATION(S) OCCURRED:** 3105 North Hays Street, Fort Worth, Tarrant County

**TYPE OF OPERATION:** inactive plating facility

**SMALL BUSINESS:**  Yes  No  N/A

**OTHER SIGNIFICANT MATTERS:** There are no complaints related to this enforcement action. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired December 6, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916  
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Clinton Sims, Waste Enforcement Section, MC 128, (512) 239-6933

**TCEQ Regional Contact:** Sam Barrett, Dallas/Fort Worth Regional Office, MC R-04, (817) 588-5903

**Respondent:** Maria Murr, 1113 De Ridder Avenue, Fort Worth, Texas 76106

**Respondent's Attorney:** John J. Corbin, Law Offices of John J. Corbin, 1020 Macon Street, Suite 12, Fort Worth, Texas 76102

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaint(s):</b>                      N/A</p> <p><b>Date of Investigation:</b>                      June 30, 2009</p> <p><b>Date of NOE:</b>                      September 22, 2009</p> <p><b>Background Facts:</b>                      The EDRP was filed on January 6, 2010. The EDFARP was filed on September 28, 2010. Respondent filed an answer and the case was referred to SOAH. The Agreed Order was signed on September 28, 2010.</p> <p><b>Current Compliance Status:</b>                      The Superfund Division of the United States Environmental Protection Agency ("EPA") began cleanup activities at the Facility on August 19, 2010.</p> <p><b>IHW:</b></p> <ol style="list-style-type: none"> <li>Failed to conduct hazardous waste determinations and classifications on all wastes generated at the Facility [30 TEX. ADMIN. CODE § 335.62 and 40 C.F.R. § 262.11].</li> <li>Failed to prevent the unauthorized discharge of industrial hazardous waste [30 TEX. ADMIN. CODE § 335.4].</li> </ol>	<p><b>Total Assessed:</b> \$33,000</p> <p><b>Total Deferred:</b> \$29,400  <input type="checkbox"/> Expedited Order  <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid/Due to General Revenue:</b>                      \$100/\$3,500</p> <p>Respondent paid \$100 of the administrative penalty. The remaining amount of \$3,500 shall be payable in 35 monthly payments of \$100 each.</p> <p><b>Compliance History Classifications:</b>  <i>Person/CN</i> – Average  <i>Site/RN</i> – Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b>                      The EPA Superfund Division will perform all cleanup activities at the Facility. The EPA began cleanup on August 19, 2010. Pursuant to 40 C.F.R. § 300.510, the Commission's Remediation Division Superfund Program will contribute 10 percent of the total cleanup costs and may seek future reimbursement from Respondent and/or other Responsible Parties for such costs.</p> <p><b>Ordering Provisions:</b>                      Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, ensure that no additional hazardous waste is discharged at the Facility.</li> <li>Within 30 days, submit written certification demonstrating compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	2-Oct-2009			
	<b>PCW</b>	21-Oct-2009	<b>Screening</b>	7-Oct-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Maria Murr				
<b>Reg. Ent. Ref. No.</b>	RN104468798				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	38548	<b>No. of Violations</b>	2		
<b>Docket No.</b>	2009-1651-IHW-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Clinton Sims		
		<b>EC's Team</b>	Enforcement Team 6		
<b>Admin. Penalty \$ Limit</b>	<b>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>	\$30,000
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### 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>	10.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$3,000
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<b>Notes</b>	Enhancement due to two NOVs with same or similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,466	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$29,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$33,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$33,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$33,000
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$33,000
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Screening Date 7-Oct-2009

Docket No. 2009-1651-IHW-E

PCW

Respondent Maria Murr

Policy Revision 2 (September 2002)

Case ID No. 38548

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104468798

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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%
<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) 10%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement due to two NOVs with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

<b>Screening Date</b>	7-Oct-2009	<b>Docket No.</b>	2009-1651-IHW-E	<b>PCW</b>
<b>Respondent</b>	Maria Murr	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	38548	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN104468798			
<b>Media [Statute]</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Clinton Sims			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 335.62 and 40 Code of Federal Regulations § 262.11			
<b>Violation Description</b>	Failed to conduct hazardous waste determinations and classifications on all wastes generated. Specifically, waste determination of two vats containing chromium plating solution, one vat containing an unknown acid, two ruptured drums of sodium cyanide, two ruptured 55-gallon open drums containing unknown solids, and a ruptured fiber drum labeled "Oakite 33" (a metal cleaner containing phosphoric acid) was not performed.			
<b>Base Penalty</b>	\$10,000			

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			
	Potential	x		
				<b>Percent</b> 25%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0%

**Matrix Notes**  
Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events: 8      99 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

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

Eight single events are recommended (one for each waste stream).

**Good Faith Efforts to Comply**      **0.0%** Reduction      \$0

	Before NOV	NOV to EDRP/Settlement
Extraordinary		
Ordinary		
N/A	x	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	
<b>Violation Subtotal</b>	\$20,000	

**Economic Benefit (EB) for this violation**      **Statutory Limit Test**

<b>Estimated EB Amount</b>	\$202	<b>Violation Final Penalty Total</b>	\$22,000
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$22,000	

## Economic Benefit Worksheet

**Respondent** Maria Murr  
**Case ID No.** 38548  
**Reg. Ent. Reference No.** RN104468798  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$4,000	30-Jun-2009	4-Jul-2010	1.01	\$202	n/a	\$202
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct hazardous waste determinations and classifications on eight waste streams. The Date Required is the investigation date and the Final Date is the estimated compliance date.

### 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

\$4,000

**TOTAL**

\$202

<b>Screening Date</b>	7-Oct-2009	<b>Docket No.</b>	2009-1651-IHW-E	<b>PCW</b>
<b>Respondent</b>	Maria Murr	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	38548	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN104468798			
<b>Media [Statute]</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Clinton Sims			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 335.4			
<b>Violation Description</b>	Failed to prevent the unauthorized discharge of industrial hazardous waste. Specifically, five ruptured drums were observed at the facility. Two of the drums contained sodium cyanide, one contained phosphoric acid, and two contained an unknown solid substance.			
<b>Base Penalty</b>	\$10,000			

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	<b>Actual</b>		x		<b>Percent</b> 25%
<b>Potential</b>					

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
					<b>Percent</b> 0%

**Matrix Notes**  
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 as a result of the violation.

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 4      99 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$10,000

Four monthly events are recommended from the June 30, 2009 investigation date to the October 7, 2009 screening date.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	<b>Before NOV</b>	<b>NOV to EDCRP/Settlement Offer</b>
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

**Violation Subtotal** \$10,000

**Economic Benefit (EB) for this violation      Statutory Limit Test**

**Estimated EB Amount** \$1,264

**Violation Final Penalty Total** \$11,000

**This violation Final Assessed Penalty (adjusted for limits)** \$11,000

## Economic Benefit Worksheet

**Respondent** Maria Murr  
**Case ID No.** 38548  
**Reg. Ent. Reference No.** RN104468798  
**Media** Industrial and Hazardous Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$25,000	30-Jun-2009	4-Jul-2010	1.01	\$1,264	n/a	\$1,264
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the wastes at an authorized facility and prepare and submit an Affected Property Assessment Report. The Date Required is the investigation date and the Final Date is the expected compliance date.

### 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

\$25,000

**TOTAL**

\$1,264

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603576281 Maria Murr Classification: Average Rating: 1.67  
Regulated Entity: RN104468798 NORTH FORT WORTH PLATING Classification: Average Site Rating: 1.67  
ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED ID NUMBER TXD982759490  
Location: 3105 N HAYS ST, FORT WORTH, TX, 76106  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: November 23, 2009  
Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 23, 2004 to November 23, 2009

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

Name: Clinton Sims Phone: 239 - 6933

## 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

### Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
    - 1 03/10/2005 (373472)
    - 2 04/20/2007 (555813)
    - 3 09/22/2009 (775218)
    - 4 10/30/2009 (780456)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
    - 1 Date: 03/11/2005 (373472)  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 335, SubChapter C 335.62  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11  
Description: Failure to conduct adequate hazardous waste determination on plating vats, raw materials and unknown containers at inactive/abandoned plating shop.
    - 2 Date: 04/24/2007 (555813)  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 335, SubChapter C 335.62  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11  
Description: Failure to conduct adequate hazardous waste determination on plating vats, raw materials and unknown containers at inactive/abandoned plating shop.
  - 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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MARIA MURR;  
RN104468798**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2009-1651-IHW-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Maria Murr ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH AND SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by John J. Corbin of the Law Offices of John J. Corbin, appear before the Commission and together stipulate that:

1. Respondent owns an inactive plating facility located at 3105 North Hays Street in Fort Worth, Tarrant County, Texas (the "Facility"). The Facility involves the management and/or the disposal of municipal solid and industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH AND SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

An administrative penalty in the amount of thirty-three thousand dollars (\$33,000.00) is assessed by the Commission in settlement of the violations alleged in Section II. The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay part of the administrative penalty. Therefore, twenty-nine thousand four hundred dollars (\$29,400.00) of the penalty is deferred contingent upon 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 Respondent fails to timely and satisfactorily comply with all the requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, require Respondent to pay all or part of the deferred penalty.

Respondent paid one hundred dollars (\$100.00) of the administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

5. 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.
6. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
7. The Executive Director recognizes that the Superfund Division of the United States Environmental Protection Agency ("EPA") will perform all cleanup activities at the Facility. The EPA began cleanup activities at the Facility on August 19, 2010. Pursuant to 40 CODE OF FEDERAL REGULATIONS § 300.510, the Commission's Remediation Division Superfund Program will contribute 10 percent of the total cleanup costs of the Facility and may seek future reimbursement from Respondent for such costs.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on June 30, 2009, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent violated:
  - a. 30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL REGULATIONS § 262.11, by failing to conduct hazardous waste determinations and classifications on all wastes generated at the Facility. Specifically, waste determinations and classifications were not performed for two vats containing chromium plating solution, one vat containing an unknown acid, two ruptured drums containing sodium cyanide, two ruptured 55-gallon open drums containing unknown solid

substances, and one ruptured fiber drum labeled "Oakite 33" (a metal cleaner containing phosphoric acid); and

- b. 30 TEX. ADMIN. CODE § 335.4, by failing to prevent the unauthorized discharge of industrial hazardous waste. Specifically, five ruptured drums were observed at the Facility. Two of the drums contained sodium cyanide, one drum contained phosphoric acid, and two of the drums contained unknown solid substances.
2. Respondent received notice of the violations on or about September 27, 2009.

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and 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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Maria Murr, Docket No. 2009-1651-IHW-E" to:

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

2. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Respondent shall ensure that no additional hazardous waste is discharged at the Site; and
  - b. Within 30 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and

Sam Barrett, Waste Section Manager  
Texas Commission on Environmental Quality  
Dallas / Fort Worth Regional Office  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. 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 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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 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.

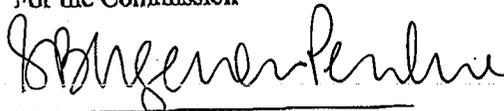
9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Maria Murr  
TCEQ Docket No. 2009-1651-IRW-E  
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



1/25/2011

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Maria L. Murr  
Signature

9-28-10  
Date

Maria Murr  
Name (Printed or typed)

Facility Owner  
Title