

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO. 2009-1678-MLM-E      RN105767412      CASE NO. 38538**

**RESPONDENT NAME: WHITE BUFFALO ENVIRONMENTAL SERVICES, LLC, DEAD BISON, INC., AND GREGORY SWINDLE**

ORDER TYPE:		
<input checked="" type="checkbox"/> 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"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL 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 checked="" type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input checked="" type="checkbox"/> USED OIL	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATIONS OCCURRED:** 5425 Ben Ficklin Road, San Angelo, Tom Green County

**TYPE OF OPERATION:** environmental consulting firm with an injection well

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

**OTHER SIGNIFICANT MATTERS:** One complaint was received, alleging that waste material had been discharged into laboratory sinks connected to a septic system at the site. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and Respondents expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired March 7, 2011. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Anna Treadwell, Litigation Division, MC 175, (512) 239-3400  
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:** Christopher Mayben, San Angelo Regional Office, MC R-8, (325) 655-9479

**TCEQ SEP Coordinator:** Sharon Blue, Litigation Division, MC 175, (512) 239-3400

**Respondent:** Gregory Swindle, President, White Buffalo Environmental Services, Inc. and Dead Bison, Inc., 4101 W. Green Oaks Blvd., Ste. 305-579, Arlington, Texas 76016-4463

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**RESPONDENT NAME: WHITE BUFFALO ENVIRONMENTAL SERVICES LLC, DEAD  
BISON, INC., AND GREGORY SWINDLE  
DOCKET NO. 2009-1678-MLM-E**

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint:</b> July 10, 2009</p> <p><b>Dates of Investigation:</b> July 14 and 15, 2009</p> <p><b>Date of NOE:</b> September 10, 2009</p> <p><b>Background Facts:</b> The EDPRP was filed on March 15, 2010. Respondents filed an answer and the case was referred to SOAH. The Agreed Order was signed on January 6, 2011.</p> <p><b>Current Compliance Status:</b> Respondent has not yet submitted documentation demonstrating compliance with the technical requirements.</p> <p><b>MLM:</b></p> <ol style="list-style-type: none"> <li>Failed to prevent the unauthorized discharge of a municipal hazardous waste into an injection well [30 TEX. ADMIN. CODE §§ 331.3(a) and 335.4 and TEX. WATER CODE § 26.121].</li> <li>Failed to obtain authorization to operate an underground injection well [30 TEX. ADMIN. CODE § 331.7(a) and 40 C.F.R. § 144.11].</li> <li>Failed to submit the appropriate inventory information to the TCEQ [30 TEX. ADMIN. CODE § 331.10(d) and (e)].</li> <li>Failed to keep records of monthly waste generation [30 TEX. ADMIN. CODE § 335.9(a)(1)].</li> <li>Failed to label or clearly mark containers storing used oil with the words "Used Oil" [30 TEX. ADMIN. CODE § 324.1 and 40 C.F.R. § 279.22(c)].</li> </ol>	<p><b>Total Assessed:</b> \$13,436</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$6,718</p> <p><b>Total Paid/Due to General Revenue:</b> \$208/\$6,510</p> <p>Respondent paid \$208 of the administrative penalty. The remaining amount of \$6,510 shall be payable in 35 monthly payments of \$186 each.</p> <p><b>Compliance History Classifications:</b>  <i>Person/CN</i> – Average (All 3 Respondents)  <i>Site/RN</i> – Average by Default</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>Ordering Provisions:</b></p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Implement and complete a SEP (<u>San Angelo Friends of the Environment</u> – <i>Recycling Program for Electronics, Glass, Plastics</i> – Tom Green County, Colorado River Basin).</li> <li>Immediately, cease utilizing the Class V injection well (violation nos. 1 and 2).</li> <li>Within 15 days: <ol style="list-style-type: none"> <li>Submit a completed TCEQ Class V Injection Well Inventory/Authorization Form (TCEQ 10338) (violation no. 3);</li> <li>Begin maintaining waste generation, storage and disposal records at the Facility (violation no. 4); and</li> <li>Begin labeling all used oil containers with the words "Used Oil" (violation no. 5).</li> </ol> </li> <li>Within 30 days, submit a plan and schedule for closure of the Class V injection.</li> <li>Respond to all requests for information from the TCEQ necessary to complete closure of the Class V injection well.</li> <li>Within 60 days, remove all materials from the Class V injection well and dispose of it at an authorized facility.</li> <li>Within 75 days, submit written certification demonstrating compliance.</li> </ol>

**Attachment A**  
**Docket Number: 2009-1678-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondents:</b>	White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle, Individually
<b>Penalty Amount:</b>	Thirteen Thousand Four Hundred Thirty-Six Dollars (\$13,436)
<b>SEP Offset Amount:</b>	Six Thousand Seven Hundred Eighteen Dollars (\$6,718)
<b>Type of SEP:</b>	Pre-approved
<b>Third-Party Recipient:</b>	San Angelo Friends of the Environment (S.A.F.E.) - <i>Recycling Program for Electronics, Glass, Plastics</i>
<b>Location of SEP:</b>	Tom Green County; Colorado River Basin

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondents to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondents shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the San Angelo Friends of the Environment (S.A.F.E.) to be used for the *Recycling Program for Electronics, Glass and Plastics* as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the SEP Offset Amount will be used for the direct cost of purchasing recycling equipment, for labor costs, and for other disposal and recycling costs associated with this project. The Third-Party Recipient currently operates a Citizen's Recycling Center at 702 Warehouse Road in San Angelo, Texas. The Center is open to the general public and currently accepts the following types of materials for recycling primarily from citizens in Tom Green, Coke, Concho, and Irion Counties: glass, plastics, electronics/e-waste, office paper, aluminum, mixed metals, newspaper, magazines, appliances, oil and oil filters, and lead acid batteries.

Use of equipment purchased with SEP Funds must be limited to activities related to recycling efforts. If any such equipment is sold after purchase with SEP Funds, the Third-Party Recipient shall receive a minimum of three bids for the purchase price and all proceeds shall go back into supporting the recycling operations at the Center. Sale of the equipment for less than the highest bid requires the prior approval of the TCEQ.

All dollars contributed will be used solely for the direct cost of the project, and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondents certify that there is no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

Reducing the amount of solid waste entering area landfills and offering an alternative to illegal dumping positively affects human health and the environment. Additionally, this project will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration. Diverting waste to recycling saves valuable landfill capacity and maximizes our land, energy and natural resources by providing for re-use.

C. Minimum Expenditure

The Respondents shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondents must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondents shall mail a copy of the Agreed Order along with the contribution, to:

San Angelo Friends of the Environment  
Attention: Project Administrator  
702 Warehouse Rd  
San Angelo, TX 76903

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondents shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondents shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondents do not perform their obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

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

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondents 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 Respondents shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondents may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondents under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	29-Sep-2009	<b>Screening</b>	6-Oct-2009	<b>EPA Due</b>	
	<b>PCW</b>	22-Feb-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle
<b>Reg. Ent. Ref. No.</b>	RN105767412
<b>Facility/Site Region</b>	8-San Angelo
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	38538	<b>No. of Violations</b>	4	
<b>Docket No.</b>	2009-1678-MLM-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Underground Injection Control	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>	Industrial and Hazardous Waste	<b>Enf. Coordinator</b>	Clinton Sims	
		<b>EC's Team</b>	Enforcement Team 7	
<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>	\$12,500
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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>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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<b>Notes</b>	No adjustments for compliance history.
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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	\$771	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,100	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$12,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	5.5%	<b>Adjustment</b>	\$686
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to capture the avoided cost associated with violation 2.
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<b>Final Penalty Amount</b>	\$13,186
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$13,186
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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>	\$13,186
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Screening Date 6-Oct-2009

Docket No. 2009-1678-MLM-E

PCW

Respondent White Buffalo Environmental Services, LLC, Dead Bison,

Policy Revision 2 (September 2002)

Case ID No. 38538

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105767412

Media [Statute] Underground Injection Control

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)	0	0%
	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) 0%

#### >> 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

No adjustments for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

<b>Screening Date</b>	6-Oct-2009	<b>Docket No.</b>	2009-1678-MLM-E	<b>PCW</b>
<b>Respondent</b>	White Buffalo Environmental Services, LLC, Dead Bison, Inc., and I			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	38538			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN105767412			
<b>Media [Statute]</b>	Underground Injection Control			
<b>Enf. Coordinator</b>	Clinton Sims			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 331.3(a), 335.4 and Tex. Water Code § 26.121			
<b>Violation Description</b>	Failed to prevent the unauthorized discharge of a municipal hazardous waste into an injection well. Specifically, laboratory wastes including total petroleum hydrocarbon were being disposed of into the on-site septic tank.			
		<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		x		<b>Percent</b> 25%
	Potential				

**>> Programmatic Matrix**

	Falsification	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   Number of violation days

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

**Violation Base Penalty** \$7,500

Three monthly events are recommended from the July 15, 2009 investigation date to the October 6, 2009 screening date.

**Good Faith Efforts to Comply**  Reduction

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

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

**Violation Subtotal** \$7,912

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

**Estimated EB Amount** \$82 **Violation Final Penalty Total** \$7,912

**This violation Final Assessed Penalty (adjusted for limits)** \$7,912

## Economic Benefit Worksheet

**Respondent** White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle  
**Case ID No.** 38538  
**Reg. Ent. Reference No.** RN105767412  
**Media** Underground Injection Control  
**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	\$2,500	14-Jul-2009	9-Mar-2010	0.65	\$82	n/a	\$82
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 dispose of waste from the septic tank. The date required is the investigation date. The final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

**TOTAL**

\$82

<b>Screening Date</b>	6-Oct-2009	<b>Docket No.</b>	2009-1678-MLM-E	<b>PCW</b>
<b>Respondent</b>	White Buffalo Environmental Services, LLC, Dead Bison, Inc., and G			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	38538			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN105767412			
<b>Media [Statute]</b>	Underground Injection Control			
<b>Enf. Coordinator</b>	Clinton Sims			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 331.7(a) and 40 Code of Federal Regulations ("CFR") § 144.11			
<b>Violation Description</b>	Failed to obtain authorization to operate an underground injection well. Specifically, the Respondent owns an unauthorized Class V injection well (subsurface drain field associated with septic tank) for disposal of laboratory wastes.			
<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>				<b>Percent</b> 0%
<b>Potential</b>					

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> 10%
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
	<b>Adjustment</b>				\$9,000

\$1,000

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty** \$3,000

Three monthly events are recommended from the July 15, 2009 investigation date to the October 6, 2009 screening date.

**Good Faith Efforts to Comply**  Reduction

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

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

**Violation Subtotal** \$3,000

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

**Estimated EB Amount** \$686 **Violation Final Penalty Total** \$3,165

**This violation Final Assessed Penalty (adjusted for limits)** \$3,165

## Economic Benefit Worksheet

**Respondent** White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle  
**Case ID No.** 38538  
**Reg. Ent. Reference No.** RN105767412  
**Media** Underground Injection Control  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### 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]	\$500	9-Jan-2003	14-Jul-2009	7.43	\$186	\$500	\$686
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to prepare and submit an application and obtain an authorization for the Class V Injection Well. The date required is the date authorization was required. The final date is the investigation date.

Approx. Cost of Compliance

\$500

**TOTAL**

\$686

**Screening Date** 6-Oct-2009 **Docket No.** 2009-1678-MLM-E **PCW**  
**Respondent** White Buffalo Environmental Services, LLC, Dead Bison, Inc., and G *Policy Revision 2 (September 2002)*  
**Case ID No.** 38538 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN105767412  
**Media [Statute]** Underground Injection Control  
**Enf. Coordinator** Clinton Sims

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	
<input type="text" value="100% of the rule requirement was not met."/>					

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/> (mark with x)

**Notes**

**Violation Subtotal**

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

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle  
**Case ID No.** 38538  
**Reg. Ent. Reference No.** RN105767412  
**Media** Underground Injection Control  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50	14-Jul-2009	9-Mar-2010	0.65	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit inventory information. The date required is the investigation date. The final date is the expected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$2

**Screening Date** 6-Oct-2009 **Docket No.** 2009-1678-MLM-E **PCW**  
**Respondent** White Buffalo Environmental Services, LLC, Dead Bison, Inc., and G *Policy Revision 2 (September 2002)*  
**Case ID No.** 38538 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN105767412  
**Media [Statute]** Underground Injection Control  
**Enf. Coordinator** Clinton Sims

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="text" value="100% of the rule requirement was not met."/>					

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

**Notes**

**Violation Subtotal**

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

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle  
**Case ID No.** 38538  
**Reg. Ent. Reference No.** RN105767412  
**Media** Underground Injection Control  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$50	14-Jul-2009	9-Mar-2010	0.65	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain waste generation records at the Facility. The date required is the investigation date.  
The final date is the expected date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

**TOTAL**

\$2



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	29-Sep-2009	<b>Screening</b>	6-Oct-2009	<b>EPA Due</b>	
	<b>PCW</b>	22-Feb-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle
<b>Reg. Ent. Ref. No.</b>	RN105767412
<b>Facility/Site Region</b>	8-San Angelo
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	38538	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2009-1678-MLM-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Used Oil	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>	Underground Injection Control	<b>Enf. Coordinator</b>	Clinton Sims	
		<b>EC's Team</b>	Enforcement Team 7	
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$2,500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$250
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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>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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<b>Notes</b>	No adjustments for compliance history.
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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	\$691	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$300	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$250
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	
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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>	\$250
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$250
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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>	\$250
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**Screening Date** 6-Oct-2009

**Docket No.** 2009-1678-MLM-E

**PCW**

**Respondent** White Buffalo Environmental Services, LLC, Dead Bison,

*Policy Revision 2 (September 2002)*

**Case ID No.** 38538

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN105767412

**Media [Statute]** Used Oil

**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 ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <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> )	0	0%
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> )	0	0%
	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)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

**>> Compliance History Summary**

**Compliance History Notes**

No adjustments for compliance history.

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

**Screening Date** 6-Oct-2009 **Docket No.** 2009-1678-MLM-E **PCW**  
**Respondent** White Buffalo Environmental Services, LLC, Dead Bison, Inc., and I  
**Case ID No.** 38538 *Policy Revision 2 (September 2002)*  
**Reg. Ent. Reference No.** RN105767412 *PCW Revision October 30, 2008*  
**Media [Statute]** Used Oil  
**Enf. Coordinator** Clinton Sims  
**Violation Number** 1  
**Rule Cite(s)** 40 Code of Federal Regulations ("CFR") § 279.22(c) and 30 Tex. Admin. Code § 324.1  
**Violation Description** Failed to label or clearly mark containers storing used oil with the words "Used Oil".  
**Base Penalty** \$2,500

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

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			
	Potential			
				<b>Percent</b> 0%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> 10%
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
					<b>Adjustment</b> \$2,250

**Violation Events**

Number of Violation Events: 1      84 Number of violation days  
*mark only one with an x*  
 daily:   
 weekly:   
 monthly:   
 quarterly:   
 semiannual:   
 annual:   
 single event:

**Violation Base Penalty** \$250

One single event is recommended.

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

	Before NOV	NOV to EDPRP/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> \$250

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

**Estimated EB Amount** \$3      **Violation Final Penalty Total** \$250  
**This violation Final Assessed Penalty (adjusted for limits)** \$250

## Economic Benefit Worksheet

**Respondent** White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle  
**Case ID No.** 38538  
**Reg. Ent. Reference No.** RN105767412  
**Media** Used Oil  
**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)	\$100	14-Jul-2009	9-Mar-2010	0.65	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to properly label used oil containers. The date required is the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601624877 White Buffalo Environmental Services, LLC Classification: AVERAGE  
 Rating: 3.01  
 Regulated Entity: RN105767412 WHITE BUFFALO ENVIRONMENTAL SERVICES Classification: AVERAGE BY DEFAULT  
 Site Rating: 3.01  
 ID Number(s):  
 INDUSTRIAL AND HAZARDOUS WASTE GENERATION EPA ID TXR000042671  
 INDUSTRIAL AND HAZARDOUS WASTE GENERATION SOLID WASTE REGISTRATION # (SWR) F0962  
 Location: 5425 BEN FICKLIN RD, SAN ANGELO, TX, 76904  
 TCEQ Region: REGION 08 - SAN ANGELO  
 Date Compliance History Prepared: October 06, 2009  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: October 06, 2004 to October 06, 2009  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Clinton Sims Phone: 512-239-6933

## 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
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.  
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.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603731621 Dead Bison, Inc. Classification: AVERAGE  
 Rating: 3.01  
 Regulated Entity: RN105767412 WHITE BUFFALO ENVIRONMENTAL SERVICES Classification: AVERAGE BY DEFAULT  
 Site Rating: 3.01  
 ID Number(s):  
 INDUSTRIAL AND HAZARDOUS WASTE GENERATION EPA ID TXR000042671  
 INDUSTRIAL AND HAZARDOUS WASTE GENERATION SOLID WASTE REGISTRATION # (SWR) F0962  
 Location: 5425 BEN FICKLIN RD, SAN ANGELO, TX, 76904  
 TCEQ Region: REGION 08 - SAN ANGELO  
 Date Compliance History Prepared: October 06, 2009  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: October 06, 2004 to October 06, 2009  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Clinton Sims Phone: 512-239-6933

## 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
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.  
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.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603735283 Swindle, Gregory	Classification: AVERAGE
		Rating: 3.01
Regulated Entity:	RN105767412 WHITE BUFFALO ENVIRONMENTAL SERVICES	Classification: AVERAGE BY DEFAULT
		Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID TXR000042671
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR) F0962
Location:	5425 BEN FICKLIN RD, SAN ANGELO, TX, 76904	
TCEQ Region:	REGION 08 - SAN ANGELO	
Date Compliance History Prepared:	October 06, 2009	
Agency Decision Requiring Compliance History:	Enforcement	
Compliance Period:	October 06, 2004 to October 06, 2009	
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History		
Name:	<u>Clinton Sims</u>	Phone: <u>512-239-6933</u>

## 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.  
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.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
WHITE BUFFALO ENVIRONMENTAL  
SERVICES, LLC, DEAD BISON, INC.,  
AND GREGORY SWINDLE;  
RN105767412**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER**

**DOCKET NO. 2009-1678-MLM-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding White Buffalo Environmental Services, LLC ("WBES LLC"), Dead Bison, Inc. ("Dead Bison"), and Gregory Swindle ("Mr. Swindle"), (collectively referred to as "Respondents") under the authority of TEX. WATER CODE chs. 7, 26, and 27, and TEX. HEALTH & SAFETY CODE chs. 361 and 371. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents appear before the Commission and together stipulate that:

1. Respondents own and/or operate an environmental consulting firm located at 5425 Ben Ficklin Road in San Angelo, Tom Green County, Texas (the "Facility"). Respondents are utilizing an injection well as defined in TEX. WATER CODE § 27.002(11). The Facility involves the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371, and involves the management of municipal 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. WATER CODE chs. 26 and 27, TEX. HEALTH & SAFETY CODE chs. 361 and 371, and TCEQ rules.
3. The Commission and Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondents are 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 Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of thirteen thousand four hundred thirty-six dollars (\$13,436.00) is assessed by the Commission in settlement of the violations

alleged in Section II. Pursuant to TEX. WATER CODE § 7.067, six thousand seven hundred eighteen dollars (\$6,718.00) of the administrative penalty shall be conditionally offset by Respondents' timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondents' obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement as determined by the Executive Director.

Respondents paid two hundred eight dollars (\$208.00) of the administrative penalty. The remaining amount of six thousand five hundred ten dollars (\$6,510.00) shall be payable in thirty five (35) monthly payments of one hundred eighty-six dollars (\$186.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full.

If Respondents fail to timely and satisfactorily comply with any requirement contained in 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 conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondents to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondents to pay all or part of the conditionally offset administrative penalty.

6. 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.
7. The Executive Director of the TCEQ and Respondents agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
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 Respondents have 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 in investigation conducted on July 14 and July 15, 2009, a TCEQ San Angelo Regional Office investigator documented that Respondents violated:
  - a. 30 TEX. ADMIN. CODE §§ 331.3(a) and 335.4 and TEX. WATER CODE § 26.121, by failing to prevent the unauthorized discharge of a municipal hazardous waste into an injection well. Specifically, laboratory wastes, including total petroleum hydrocarbon, were being disposed of into the on-site septic tank;
  - b. 30 TEX. ADMIN. CODE § 331.7(a) and 40 C.F.R. § 144.11, by failing to obtain authorization to operate an underground injection well. Specifically, Respondents own and operate an unauthorized Class V injection well (subsurface drain field associated with a septic tank) for disposal of laboratory wastes;
  - c. 30 TEX. ADMIN. CODE § 331.10(d) and (e), by failing to submit the appropriate inventory information to the TCEQ. Specifically, Respondents did not submit the TCEQ Class V Injection Well Inventory/Authorization Form (TCEQ 10338);
  - d. 30 TEX. ADMIN. CODE § 335.9(a)(1), by failing to keep records of monthly waste generation. Specifically, at the time of the investigation, waste generation records were not available; and
  - e. 30 TEX. ADMIN. CODE § 324.1 and 40 C.F.R. § 279.22(c), by failing to label or clearly mark containers storing used oil with the words "Used Oil".
2. WBES LLC received notice of the violations on or about September 15, 2009. Respondents received notice of the violations on October 12, 2010.

## III. DENIALS

Respondents generally deny each Allegation in Section II.

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondents pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondents' 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: White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle, individually, Docket No. 2009-1678-MLM-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. Respondents shall implement and complete a SEP as set forth in Section I, Paragraph 5, above. The amount of six thousand seven hundred eighteen dollars (\$6,718.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondents implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondents' obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment. Checks shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle, individually, Docket No. 2009-1678-MLM-E" to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. Respondents shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Respondents shall cease utilizing the Class V injection well (Allegation Nos. 1.a. and 1.b.).
  - b. Within 15 days after the effective date of this Agreed Order, Respondents shall:
    - i. Submit a completed TCEQ Class V Injection Well Inventory/Authorization Form (TCEQ 10338) to:

Underground Injection Control Program, MC 130  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
    - ii. Begin maintaining waste generation, storage and disposal records at the Facility, in accordance with 30 TEX. ADMIN. CODE § 335.9 (Allegation No. 1.d.); and
    - iii. Begin labeling all used oil containers with the words "Used Oil", in accordance with 40 CFR § 279.22(c) (Allegation No. 1.e.).
  - c. Within 30 days after the effective date of this Agreed Order, Respondents shall submit a plan and schedule for closure of the Class V injection well in accordance with 30 TEX. ADMIN. CODE § 331.133 for review, possible modification, and approval by the Executive Director. Upon approval, the timeframes set forth in the plan and schedule shall be incorporated as part of this Agreed Order. The plan and schedule shall be submitted to:

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

with copies to:

Underground Injection Control Program, MC 130  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

and to:

Environmental Cleanup, MC 127  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

- d. Respondents shall respond to all request(s) for information from the TCEQ as necessary to complete closure of the Class V injection well in accordance with the approved plan and schedule.
- e. Within 60 days after the effective date of this Agreed Order, Respondents shall remove all materials from the Class V injection well and dispose of it at an authorized facility.
- f. Within 75 days after the effective date of this Agreed Order, Respondents shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provisions Nos. 3.a through 3.e. 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."

Respondents 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

Christopher Mayben, Waste Section Manager  
Texas Commission on Environmental Quality  
San Angelo Regional Office  
622 South Oakes, Suite K  
San Angelo, Texas 76903-7013

4. All relief not expressly granted in this Agreed Order is denied.
5. The provisions of this Agreed Order shall apply to and be binding upon Respondents. Respondents are 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.
6. If Respondents fail 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, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. This Agreed Order, issued by the Commission, shall not be admissible against Respondents 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.
9. 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.

10. 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 Respondents, or three days after the date on which the Commission mails notice of this Agreed Order to Respondents, 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

2/18/2011

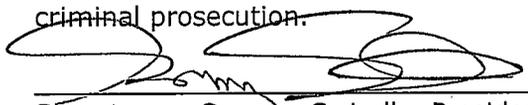
Date

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 White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle, individually, 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.



Signature - Gregory Swindle, President  
**White Buffalo Environmental Services, LLC.**

1/6/2011

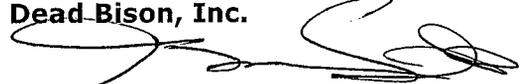
Date



Signature - Gregory Swindle, President  
**Dead Bison, Inc.**

1/6/2011

Date



Signature - Gregory Swindle

1/6/2011

Date

**Attachment A**  
**Docket Number: 2009-1678-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondents:</b>	White Buffalo Environmental Services, LLC, Dead Bison, Inc., and Gregory Swindle, Individually
<b>Penalty Amount:</b>	Thirteen Thousand Four Hundred Thirty-Six Dollars (\$13,436)
<b>SEP Offset Amount:</b>	Six Thousand Seven Hundred Eighteen Dollars (\$6,718)
<b>Type of SEP:</b>	Pre-approved
<b>Third-Party Recipient:</b>	San Angelo Friends of the Environment (S.A.F.E.) - <i>Recycling Program for Electronics, Glass, Plastics</i>
<b>Location of SEP:</b>	Tom Green County; Colorado River Basin

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondents to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondents shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the San Angelo Friends of the Environment (S.A.F.E.) to be used for the *Recycling Program for Electronics, Glass and Plastics* as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the SEP Offset Amount will be used for the direct cost of purchasing recycling equipment, for labor costs, and for other disposal and recycling costs associated with this project. The Third-Party Recipient currently operates a Citizen's Recycling Center at 702 Warehouse Road in San Angelo, Texas. The Center is open to the general public and currently accepts the following types of materials for recycling primarily from citizens in Tom Green, Coke, Concho, and Irion Counties: glass, plastics, electronics/e-waste, office paper, aluminum, mixed metals, newspaper, magazines, appliances, oil and oil filters, and lead acid batteries.

Use of equipment purchased with SEP Funds must be limited to activities related to recycling efforts. If any such equipment is sold after purchase with SEP Funds, the Third-Party Recipient shall receive a minimum of three bids for the purchase price and all proceeds shall go back into supporting the recycling operations at the Center. Sale of the equipment for less than the highest bid requires the prior approval of the TCEQ.

All dollars contributed will be used solely for the direct cost of the project, and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondents certify that there is no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

Reducing the amount of solid waste entering area landfills and offering an alternative to illegal dumping positively affects human health and the environment. Additionally, this project will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration. Diverting waste to recycling saves valuable landfill capacity and maximizes our land, energy and natural resources by providing for re-use.

C. Minimum Expenditure

The Respondents shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondents must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondents shall mail a copy of the Agreed Order along with the contribution, to:

San Angelo Friends of the Environment  
Attention: Project Administrator  
702 Warehouse Rd  
San Angelo, TX 76903

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondents shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondents shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondents do not perform their obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

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

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondents 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 Respondents shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondents may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondents under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.