

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1632-IWD-E **TCEQ ID:** RN101702439 **CASE NO.:** 40498
RESPONDENT NAME: Waste Control Specialists LLC

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Waste Control Specialists, 9998 State Highway 176 West, approximately 1.25 miles north of the intersection of State Highway 176 with the Texas and New Mexico state line, Andrews County</p> <p>TYPE OF OPERATION: Byproduct material disposal facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 9, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, 512-239-4490; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Linda Beach, Vice President and General Manager, Waste Control Specialists LLC, P.O. Box 1129, Andrew, Texas 79714 Mr. Rodney A. Baltzer, President, Waste Control Specialists LLC, P.O. Box 1129, Andrew, Texas 79714 Respondent's Attorney: Michael L. Woodward, Hance Scarborough, LLP, 111 Congress Avenue, Suite 500, Austin, Texas 78701</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: August 18, 2010</p> <p>Date of NOV/NOE Relating to this Case: September 22, 2010 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Discharged wastewater and storm water into a storm water drainage ditch along the Texas/New Mexico state line on the Respondent's property and failed to comply with permit effluent limits at Outfall 002 for aluminum, cadmium, chlorine, copper, and iron [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004857000, Other Requirements No. 16].</p>	<p>Total Assessed: \$3,550</p> <p>Total Deferred: \$710 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,840</p> <p>Compliance History Classification: Person/CN – Average Site/RN – Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) In late August 2010, a diversion berm was constructed to divert flow from a portion of the existing storm water drainage ditch along the Texas/New Mexico state line to a newly constructed drainage ditch which flows over vegetative cover to reduce the sedimentation load, and consequently the metal contribution, to Outfall 002; and</p> <p>b) In late August 2010, check dams and silt fences were added to the newly constructed drainage ditch and Outfall 002, and approximately 40 percent of the drainage ditch was lined to prevent erosion of the ditch and to further reduce the sedimentation load to Outfall 002.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit amendment application for TPDES Permit No. WQ0004857000;</p> <p>b) Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests or by any other deadline specified in the writing; and</p> <p>c) Within 360 days after the effective date of this Agreed Order, submit written certification of compliance with the Outfall 002 effluent limits of TPDES Permit No. WQ0004857000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported</p>

		discharge monitoring reports, demonstrating compliance with all permitted effluent limitations for three consecutive discharge events.
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Additional ID No(s): WQ0004857000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	25-Sep-2010	Screening	30-Sep-2010	EPA Due	5-Mar-2011
	PCW	30-Sep-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Waste Control Specialists LLC		
Reg. Ent. Ref. No.	RN101702439		
Facility/Site Region	7-Midland	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	40498	No. of Violations	1	
Docket No.	2010-1632-IWD-E	Order Type	1660	
Media Program(s)	Water Quality	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Merrilee Hupp	
		EC's Team	Enforcement Team 1	
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **52.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,300**

Notes
Enhancement for five months of self-reported effluent violations, two NOV's with same/similar violations, one NOV with dissimilar violatons, and an order with denial; and reduction for three audit notices of intent and one disclosure of violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$11,641**
Approx. Cost of Compliance **\$100,000**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$3,800**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-6.6%** **Adjustment** **-\$250**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes
Recommended reduction to prevent double enhancement for self-reported violations.

Final Penalty Amount **\$3,550**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$3,550**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$710**

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

Notes
Deferral offered for expedited settlement.

PAYABLE PENALTY **\$2,840**

Screening Date 30-Sep-2010

Docket No. 2010-1632-IWD-E

PCW

Respondent Waste Control Specialists LLC

Policy Revision 2 (September 2002)

Case ID No. 40498

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101702439

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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>)	3	-3%
	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>)	1	-2%
<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) 52%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five months of self-reported effluent violations, two NOVs with same/similar violations, one NOV with dissimilar violatons, and an order with denial; and reduction for three audit notices of intent and one disclosure of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 52%

Screening Date 30-Sep-2010

Docket No. 2010-1632-IWD-E

PCW

Respondent Waste Control Specialists LLC

Policy Revision 2 (September 2002)

Case ID No. 40498

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101702439

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004857000, Other Requirements No. 16

Violation Description Discharged wastewater and storm water into a storm water drainage ditch along the Texas/New Mexico state line on the Respondent's property and failed to comply with permit effluent limits at Outfall 002, as documented during a record review conducted on August 18, 2010 and shown in the attached effluent violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 59

Table for frequency selection: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x), and Notes.

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11,641

Violation Final Penalty Total \$3,550

This violation Final Assessed Penalty (adjusted for limits) \$3,550

Economic Benefit Worksheet

Respondent Waste Control Specialists LLC
Case ID No. 40498
Reg. Ent. Reference No. RN101702439
Media Water Quality
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	\$100,000	31-Jan-2010	30-Sep-2011	1.66	\$554	\$11,087	\$11,641
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of an assessment to determine the source of the pollutants and how to minimize contributions of metals to the discharge at Outfall 002. Date required is the first noncompliant month and final date is when compliance is expected to be achieved.

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

\$100,000

TOTAL

\$11,641

Respondent: Waste Control Specialists LLC
 TPDES Permit No. WQ0004857000
 Docket No. 2010-1632-IWD-E

Effluent Violation Table

<i>Effluent Parameter</i>	<i>Monitoring Period End Date</i>	<i>Monitoring Period End Date</i>
	January 31, 2010	February 28, 2010
	Reported Value (µ/L)	Reported Value (µ/L)
Daily Av. Conc. Total Aluminum Permit Limit = 750 µg/L	19,300	5,400
Daily Max. Conc. Total Aluminum Permit Limit = 750 µg/L	19,300	5,400
Daily Av. Conc. Total Cadmium Permit Limit = 0.42 µg/L	0.582	0.637
Daily Max. Conc. Total Cadmium Permit Limit = 0.42 µg/L	0.582	0.637
Daily Av. Conc. Total Chlorine Residual Permit Limit = 11 µg/L	c	1,300
Daily Max. Conc. Total Chlorine Residual Permit Limit = 11 µg/L	c	1,300
Daily Av. Conc. Total Copper Permit Limit = 7.6 µg/L	17.2	c
Daily Max. Conc. Total Copper Permit Limit = 7.6 µg/L	17.2	c
Daily Av. Conc. Total Iron Permit Limit = 1,000 µg/L	8,130	3,510
Daily Max. Conc. Total Iron Permit Limit = 1,000 µg/L	8,130	3,510

Conc.: concentration µg/L: micrograms per liter
 Av: average Max: maximum

Compliance History Report

Customer/Respondent/Owner-Operator: CN600616890 Waste Control Specialists LLC Classification: AVERAGE Rating: 1.18

Regulated Entity: RN101702439 WASTE CONTROL SPECIALISTS Classification: AVERAGE Site Rating: 1.18

ID Number(s):

RADIOACTIVE WASTE STORAGE & PROCESSING	LICENSE	R04971
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXR000075788
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	50397
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD988088464
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	50358
INDUSTRIAL AND HAZARDOUS WASTE	PERMIT	50358
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	50358
WASTEWATER	PERMIT	WQ0004038000
WASTEWATER	EPA ID	TX0117005
WASTEWATER	PERMIT	WQ0004857000
WASTEWATER	EPA ID	TX0131644
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	73836
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	AB0164V
AIR NEW SOURCE PERMITS	AFS NUM	4800300044
AIR NEW SOURCE PERMITS	PERMIT	72653
AIR NEW SOURCE PERMITS	REGISTRATION	90344
AIR NEW SOURCE PERMITS	REGISTRATION	86421
AIR NEW SOURCE PERMITS	REGISTRATION	86252
AIR NEW SOURCE PERMITS	REGISTRATION	42916
STORMWATER	PERMIT	TXR150Z62
RADIOACTIVE WASTE DISPOSAL	LICENSE	R04100
RADIOACTIVE WASTE DISPOSAL	LICENSE	R05807
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	AB0164V

Location: 9998 STATE HIGHWAY 176 W, APPROX. 1.25 MI. N. OF THE INTERSEC. OF STATE HWY. 176 WITH THE TX. & NEW MEXICO STATE LINE IN ANDREWS CO., TX.

TCEQ Region: REGION 07 - MIDLAND

Date Compliance History Prepared: September 30, 2010

Agency Decision Requiring Compliance History: Enforcement

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

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

Name: Merrilee Hupp Phone: (512) 239-4490

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? Yes
3. If Yes, who is the current owner/operator?

OPR	Craig Wallace Construction, LLC
OPR	DelHur Industries, Inc.
OWNOPR	Waste Control Specialists LLC
OPR	Washington Group International, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWN Waste Control Specialists, Inc.
5. When did the change(s) in owner or operator occur? 10/05/2005 OWN Waste Control Specialists, Inc.
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Classification: Moderate

Citation: 30 TAC Chapter 331, SubChapter A 331.6
30 TAC Chapter 336, SubChapter C 336.203

Description: Waste Control Specialists, LLC has injected radioactive wastes without authorization into or above a formation, located within one-quarter mile of the well that serves as an underground source of drinking water, and disposed of radioactive material without having a radioactive material disposal license.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4(2)
30 TAC Chapter 335, SubChapter A 335.4(3)

Description: Waste Control Specialists, LLC by causing, suffering, allowing, or permitting the collection, handling, storage, processing, or disposal of industrial solid waste in a manner as to cause the creation and maintenance of a nuisance or the endangerment of the public health and welfare.

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	10/26/2005	(491724)
2	11/28/2005	(491725)
3	12/28/2005	(491726)
4	01/19/2006	(491727)
5	01/25/2006	(453238)
6	02/17/2006	(456128)
7	02/23/2006	(455617)
8	03/01/2006	(491722)
9	03/24/2006	(491723)
10	04/24/2006	(505909)
11	05/23/2006	(505910)
12	06/09/2006	(481729)
13	06/26/2006	(505911)
14	07/20/2006	(528153)
15	08/21/2006	(528154)
16	09/20/2006	(528155)
17	10/20/2006	(528156)
18	11/20/2006	(551662)
19	12/20/2006	(551663)
20	01/18/2007	(551664)
21	02/26/2007	(588768)
22	03/15/2007	(541224)
23	03/19/2007	(588769)
24	04/23/2007	(588770)
25	05/21/2007	(588771)
26	06/22/2007	(588772)
27	07/20/2007	(588773)
28	08/20/2007	(605589)
29	09/20/2007	(605590)
30	10/19/2007	(605591)
31	11/20/2007	(630468)
32	12/20/2007	(630469)
33	01/10/2008	(630470)
34	01/16/2008	(614777)
35	02/18/2008	(677040)
36	02/28/2008	(618789)
37	03/20/2008	(677041)
38	04/18/2008	(677042)
39	05/20/2008	(695670)

40	06/20/2008	(695671)
41	07/18/2008	(695672)
42	08/20/2008	(717219)
43	09/19/2008	(717220)
44	10/20/2008	(717221)
45	10/21/2008	(706007)
46	11/20/2008	(732584)
47	12/19/2008	(732585)
48	01/20/2009	(732586)
49	02/19/2009	(755874)
50	02/25/2009	(735989)
51	03/16/2009	(755875)
52	03/19/2009	(737892)
53	04/20/2009	(755876)
54	05/15/2009	(772866)
55	06/11/2009	(772867)
56	06/16/2009	(747827)
57	07/24/2009	(818760)
58	08/12/2009	(765132)
59	08/20/2009	(818761)
60	09/17/2009	(818762)
61	10/20/2009	(818763)
62	11/19/2009	(818764)
63	11/23/2009	(822214)
64	12/15/2009	(818765)
65	12/21/2009	(822215)
66	01/18/2010	(818766)
67	01/20/2010	(822216)
68	02/04/2010	(786857)
69	02/19/2010	(818759)
70	02/24/2010	(845455)
71	03/19/2010	(835818)
72	04/14/2010	(835819)
73	04/15/2010	(837145)
74	04/30/2010	(798558)
75	05/20/2010	(835820)
76	05/21/2010	(837146)
77	06/16/2010	(847792)
78	06/16/2010	(848182)
79	07/16/2010	(841749)
80	07/16/2010	(845456)
81	07/20/2010	(862195)
82	07/23/2010	(862673)
83	08/31/2010	(857646)
84	08/31/2010	(857734)
85	09/23/2010	(849652)

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

Date:	02/17/2006	(456128)	Classification:	Minor
Self Report?	NO			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	The permittee was found to be in violation of their Outfall 101 average daily flow parameter (0.020 MGD) in 5 months of 2005.			
Date:	03/31/2009	(755876)	Classification:	Moderate
Self Report?	YES			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2009	(818761)	CN600616890	
Self Report?	YES			Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)			

Description: Failure to meet the limit for one or more permit parameter
Date 01/31/2010 (845455) CN60061689C
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
Date 02/04/2010 (786857) CN60061689C
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Permittee exceeded Oil & Grease daily maximum parameter (15 mg/L) from Outfall 002 on July 22, 2009 (33 mg/L). They also exceeded the pH maximum (9.0 S.U.) on March 20, 2009 from Outfall 003 (9.45 S.U.).

Date 02/28/2010 (845456)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
Date 06/30/2010 (862673) CN60061689C
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
Date 07/13/2010 (857646)
Self Report? NO Classification: Moderate
Citation: 5C THSC Chapter 389, SubChapter F 401.011(c)
Condition 23.B and 36 PERMIT
Description: Failed to comply with License R04971, Conditions 23.B and 36 by exceeding the licensed storage time of 365 days. Specifically, in accordance with License Condition 23.B, all waste (with the exception of the low-level mixed waste generated at the Safety Light Superfund Site) placed into interim storage shall be transferred to an authorized recipient within 365 days of the initial date of receipt

F. Environmental audits.

Notice of Intent Date: 03/05/2008 (640828)
Disclosure Date: 07/01/2008
Viol. Classification: Moderate
Rqmt PERMIT License L04971 (currently R04971)

Description: Failure to meet the one hour fire rating requirement for the Mixed Waste Treatment Facility.
Disclosure Date: 10/10/2008
Viol. Classification: Moderate
Citation: 30 TAC Chapter 336, SubChapter D 336.304(a)

Description: Failure to comply with curtain RSP-100, Radiation Safety Program procedures.
Notice of Intent Date: 03/14/2008 (640831)
No DOV Associated
Notice of Intent Date: 03/25/2010 (798473)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WASTE CONTROL SPECIALISTS
LLC
RN101702439**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1632-IWD-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Waste Control Specialists LLC ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Michael L. Woodward of the law firm of Hance Scarborough, LLP, appear before the Commission and together stipulate that:

1. The Respondent operates a byproduct material disposal facility at 9998 State Highway 176 West, approximately 1.25 miles north of the intersection of State Highway 176 with the Texas and New Mexico state line in Andrews County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations ("NOV") alleged in Section II ("Allegations") on or about September 27, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Five Hundred Fifty Dollars (\$3,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Eight Hundred Forty Dollars (\$2,840) of the administrative penalty and Seven Hundred Ten Dollars (\$710) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. In late August 2010, a diversion berm was constructed to divert flow from a portion of the existing storm water drainage ditch along the Texas/New Mexico state line to a newly constructed drainage ditch which flows over vegetative cover to reduce the sedimentation load, and consequently the metal contribution, to Outfall 002; and
 - b. In late August 2010, check dams and silt fences were added to the newly constructed drainage ditch and Outfall 002, and approximately 40 percent of the drainage ditch was lined to prevent erosion of the ditch and to further reduce the sedimentation load to Outfall 002.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Facility, the Respondent is alleged to have discharged wastewater and storm water into a storm water drainage ditch along the Texas/New Mexico state line on the Respondent's property and failed to comply with permit effluent limits at Outfall 002, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004857000, Other Requirements No. 16, as documented during a record review conducted on August 18, 2010 and shown in the following effluent violation table:

<i>Effluent Parameter</i>	<i>Monitoring Period End Date</i>	<i>Monitoring Period End Date</i>
	January 31, 2010	February 28, 2010
	Reported Value (µg/L)	Reported Value (µg/L)
Daily Av. Conc. Total Aluminum Permit Limit = 750 µg/L	19,300	5,400
Daily Max. Conc. Total Aluminum Permit Limit = 750 µg/L	19,300	5,400
Daily Av. Conc. Total Cadmium Permit Limit = 0.42 µg/L	0.582	0.637
Daily Max. Conc. Total Cadmium Permit Limit = 0.42 µg/L	0.582	0.637
Daily Av. Conc. Total Chlorine Residual Permit Limit = 11 µg/L	c	1,300
Daily Max. Conc. Total Chlorine Residual Permit Limit = 11 µg/L	c	1,300
Daily Av. Conc. Total Copper Permit Limit = 7.6 µg/L	17.2	c
Daily Max. Conc. Total Copper Permit Limit = 7.6 µg/L	17.2	c
Daily Av. Conc. Total Iron Permit Limit = 1,000 µg/L	8,130	3,510
Daily Max. Conc. Total Iron Permit Limit = 1,000 µg/L	8,130	3,510

Conc.: concentration µg/L: micrograms per liter
Av: average Max: maximum

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Waste Control Specialists LLC, Docket No. 2010-1632-IWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit amendment application for TPDES Permit No. WQ0004857000, in accordance with 30 TEX. ADMIN. CODE ch. 305.62 to:

Application Review and Processing Team
Water Quality Division, MC148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests or by any other deadline specified in writing; and
- c. Within 360 days after the effective date of this Agreed Order, submit written certification of compliance with the Outfall 002 effluent limits of TPDES Permit No. WQ0004857000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating compliance with all permitted effluent limitations for three consecutive discharge events. 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 this document and all attachments were prepared under my direction or supervision in accordance with a

system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Midland Regional Office
Texas Commission on Environmental Quality
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5404

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/12/2011

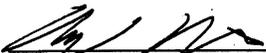
Date

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

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

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

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



Signature

Feb. 23, 2011

Date

Radhay A. Baltzer

Name (Printed or typed)
Authorized Representative of
Waste Control Specialists LLC

President

Title

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