

Executive Summary – Enforcement Matter – Case No. 39939
SETX CLEARWATER ENVIRONMENTAL, L.L.C.
RN105904635
Docket No. 2010-1047-MLM-E

Order Type:
Agreed Order

Findings Order Justification:
N/A

Media:
MLM – IHW & Used Oil

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
9501 Jade Avenue, Port Arthur, Jefferson County

Type of Operation:
industrial wastewater disposal facility

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: April 15, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,000

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$170

Total Due to General Revenue: \$4,830

Payment Plan: 35 payments of \$138 each

SEP Conditional Offset: N/A

Name of SEP: N/A

Compliance History Classifications:

Person/CN – Not yet rated

Site/RN – Not yet rated

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 20, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): June 9, 2010

Violation Information

1. Failed to prevent the unauthorized discharge of used oil [30 TEX. ADMIN. CODE §§ 324.1 and 324.4(1) and 40 C.F.R. § 279.22].
2. Failed to clearly label containers storing used oil [30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c)].
3. Failed to obtain a used oil registration and EPA ID number prior to conducting used oil activities [30 TEX. ADMIN. CODE §§ 324.12(2) and 324.4(2)(C)(i) and 40 C.F.R. § 279.51]
4. Failed to prevent the unauthorized discharge of industrial hazardous waste ("IHW") (hydrochloric acid rinsate washout water was discharged to an area of soil covering approximately 450 square feet [30 TEX. ADMIN. CODE § 335.4].
5. Failed to maintain an adequate Waste Analysis Plan ("WAP") [30 TEX. ADMIN. CODE § 324.12(3) and 40 C.F.R. § 279.55].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately, cease any additional discharge of used oil and IHW at the Facility and begin proper remediation and removal of contaminated soil.
2. Within 30 days:
 - a. Appropriately mark each used oil container with the words "Used Oil";
 - b. Complete and submit required used oil registration forms for the Facility;
 - c. Begin maintaining a adequate WAP; and
 - d. Submit a report which includes a summary of remediation activities that took place, confirming that all contaminated soil at the Facility has been properly remediated. Remediation activities will address all areas where stained soil and soil contaminated with oil and IHW spills/stains were observed, including but not limited to the sludge drying bay area and processing building. The report shall include analytical results of soil confirmation sampling which characterizes the effectiveness of contaminated soil removal in all contaminated areas, and documentation that contaminated soil as been disposed of in an authorized manner.
3. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: December 2, 2010
Date Answer(s) Filed: February 13, 2011
SOAH Referral Date: N/A
Hearing Date(s):
 Preliminary hearing: N/A
 Evidentiary hearing: N/A
Settlement Date: March 14, 2011

Contact Information

TCEQ Attorneys: Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016
Lena Roberts, Litigation Division, MC 175, (512) 239-3400
TCEQ SEP Coordinator: N/A
TCEQ Enforcement Coordinator: Danielle Porras, Waste Enforcement Section, (713) 767-3682
TCEQ Regional Contact: Derek Eades, Beaumont Regional Office, MC R-10, (409) 898-3838
Respondent: Saeed A. Ally, Director, SETX Clearwater Environmental, L.L.C.
9501 Jade Avenue Port Arthur, Texas 77640-1327
Respondent's Attorney: John S. Morgan, Harris, Duesler & Hatfield, LLP
P.O. Box 830, Beaumont, Texas 77704

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Jun-2010			
	PCW	28-Oct-2010	Screening	22-Jun-2010	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	SETX Clearwater Environmental, L.L.C.				
Reg. Ent. Ref. No.	RN105904635				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	39939	No. of Violations	3		
Docket No.	2010-1047-MLM-E	Order Type	1660		
Media Program(s)	Used Oil	Government/Non-Profit	No		
Multi-Media	Industrial and Hazardous Waste	Enf. Coordinator	Danielle Porras		
		EC's Team	Enforcement Team 7		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$2,500	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment due to compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$319	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$7,700	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$3,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$3,000
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Screening Date 22-Jun-2010

Docket No. 2010-1047-MLM-E

PCW

Respondent SETX Clearwater Environmental, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 39939

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105904635

Media [Statute] Used Oil

Enf. Coordinator Danielle Porras

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) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date	22-Jun-2010	Docket No.	2010-1047-MLM-E	PCW
Respondent	SETX Clearwater Environmental, L.L.C.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	39939			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105904635			
Media [Statute]	Used Oil			
Enf. Coordinator	Danielle Porras			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 324.1 and 324.4(1) and 40 Code of Federal Regulations ("CFR") § 279.22			
Violation Description	Failed to prevent the unauthorized discharge of used oil. Specifically, approximately 40 square feet of soil contaminated with used oil was observed at the northeast corner of the sludge drying bay area.			
Base Penalty	\$2,500			

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual			x	Percent 10%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0%

Matrix Notes
Human health and 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 \$2,250

\$250

Violation Events

Number of Violation Events 1 63 Number of violation days

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

Violation Base Penalty \$250

One quarterly event is recommended from the April 20, 2010 investigation to the June 22, 2010 screening date.

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

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

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

Violation Subtotal \$250

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

Estimated EB Amount \$290

Violation Final Penalty Total \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

Economic Benefit Worksheet

Respondent SETX Clearwater Environmental, L.L.C.
Case ID No. 39939
Reg. Ent. Reference No. RN105904635
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	\$7,000	20-Apr-2010	16-Feb-2011	0.83	\$290	n/a	\$290
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to clean up and dispose of used oil and contaminated soil. 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

\$7,000

TOTAL

\$290

Screening Date 22-Jun-2010 **Docket No.** 2010-1047-MLM-E **PCW**
Respondent SETX Clearwater Environmental, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 39939 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105904635
Media [Statute] Used Oil
Enf. Coordinator Danielle Porras

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 EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(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 SETX Clearwater Environmental, L.L.C.
Case ID No. 39939
Reg. Ent. Reference No. RN105904635
Media Used Oil
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)	\$200	20-Apr-2010	16-Feb-2011	0.83	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to properly label all used oil containers with the words "Used Oil." 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

\$200

TOTAL

\$8

Screening Date 22-Jun-2010 **Docket No.** 2010-1047-MLM-E **PCW**
Respondent SETX Clearwater Environmental, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 39939 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105904635
Media [Statute] Used Oil
Enf. Coordinator Danielle Porras

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 324.12(2) and 324.4(2)(C)(i) and 40 CFR § 279.51
Violation Description Failed to obtain a used oil registration and EPA ID number prior to conducting used oil activities.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1 63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$250

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

Estimated EB Amount \$21 **Violation Final Penalty Total** \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

Economic Benefit Worksheet

Respondent SETX Clearwater Environmental, L.L.C.
Case ID No. 39939
Reg. Ent. Reference No. RN105904635
Media Used Oil
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$500	20-Apr-2010	16-Feb-2011	0.83	\$21	n/a	\$21
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to obtain a registration and EPA ID number. 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

\$500

TOTAL

\$21



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Jun-2010			
	PCW	28-Oct-2010	Screening	22-Jun-2010	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	SETX Clearwater Environmental, L.L.C.				
Reg. Ent. Ref. No.	RN105904635				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	39939	No. of Violations	2		
Docket No.	2010-1047-MLM-E	Order Type	1660		
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No		
Multi-Media	Used Oil	Enf. Coordinator	Danielle Porras		
		EC's Team	Enforcement Team 7		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment due to compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$248	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$2,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$2,000
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Screening Date 22-Jun-2010

Docket No. 2010-1047-MLM-E

PCW

Respondent SETX Clearwater Environmental, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 39939

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105904635

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Danielle Porras

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) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date	22-Jun-2010	Docket No.	2010-1047-MLM-E	PCW
Respondent	SETX Clearwater Environmental, L.L.C.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	39939			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105904635			
Media [Statute]	Industrial and Hazardous Waste			
Enf. Coordinator	Danielle Porras			
Violation Number	<input type="text" value="1"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 335.4"/>			
Violation Description	<input 450="" a="" acid="" approximately="" area="" building."="" corner="" covering="" discharged="" feet="" hydrochloric="" ihw").="" of="" processing="" rinsate="" soil="" southwest="" specifically,="" square="" the="" to="" type="text" value="Failed to prevent the unauthorized discharge of industrial hazardous waste (" was="" washout="" water="" west=""/>			
	Base Penalty	<input type="text" value="\$10,000"/>		

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	Percent <input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>				
	Adjustment	<input type="text" value="\$9,000"/>			

Violation Events

Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="63"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input checked="" type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
	<input type="text" value="One quarterly event is recommended from the April 20, 2010 investigation to the June 22, 2010 screening date."/>		

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	
	Violation Subtotal	<input type="text" value="\$1,000"/>

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

Estimated EB Amount	<input type="text" value="\$207"/>	Violation Final Penalty Total	<input type="text" value="\$1,000"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$1,000"/>

Economic Benefit Worksheet

Respondent SETX Clearwater Environmental, L.L.C.
Case ID No. 39939
Reg. Ent. Reference No. RN105904635
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$5,000	20-Apr-2010	16-Feb-2011	0.83	\$207	n/a	\$207
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 the discharged waste and the contaminated soil. 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

\$5,000

TOTAL

\$207

Screening Date 22-Jun-2010 **Docket No.** 2010-1047-MLM-E **PCW**
Respondent SETX Clearwater Environmental, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 39939 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105904635
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Danielle Porras

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 type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
<input type="text" value="100% of the rule requirement was not met."/>					
Adjustment					<input type="text" value="\$9,000"/>

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 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 type="text" value="x"/>	<input type="text" value="(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 SETX Clearwater Environmental, L.L.C.
Case ID No. 39939
Reg. Ent. Reference No. RN105904635
Media Industrial and Hazardous Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	20-Apr-2010	16-Feb-2011	0.83	\$41	n/a	\$41

Notes for DELAYED costs

Estimated cost to prepare an adequate Waste Analysis Plan. 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

\$1,000

TOTAL

\$41

Compliance History Report

Customer/Respondent/Owner-Operator: CN603654070 SETX Clearwater Environmental, L.L.C. Classification: Rating:
Regulated Entity: RN105904635 Clearwater Environmental Classification: Site Rating:
ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000080110
GENERATION
Location: 9501 JADE AVE, PORT ARTHUR, TX, 77640
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: June 22, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 22, 2005 to June 22, 2010

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

Name: Danielle Porras Phone: (713) 767-3682

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 05/21/2010 (801714)
2 06/09/2010 (799980)
- 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
SETX CLEARWATER
ENVIRONMENTAL, L.L.C.;
RN105904635**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1047-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 SETX Clearwater Environmental, L.L.C. ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 371. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by John S. Morgan of the law firm Harris, Duesler & Hatfield, LLP, appear before the Commission and together stipulate that:

1. Respondent owns and operates an industrial wastewater disposal facility located at 9501 Jade Avenue in Port Arthur, Jefferson County, Texas (the "Facility"). The Facility involves the management and/or the disposal of industrial hazardous waste ("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Facility also involves the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 371 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of five thousand dollars (\$5,000.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one hundred seventy dollars (\$170.00) of the administrative penalty. The remaining amount of four thousand eight hundred thirty dollars (\$4,830.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one hundred thirty-eight dollars (\$138.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order.

The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

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 Respondent 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on April 20, 2010, a TCEQ Beaumont Regional Office investigator documented that Respondent violated:
 - a. 30 TEX. ADMIN. CODE §§ 324.1 and 324.4(1) and 40 C.F.R. § 279.22, by failing to prevent the unauthorized discharge of used oil. Specifically, approximately 40 square feet of soil contaminated with used oil was observed at the northeast corner of the sludge drying bay area;
 - b. 30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c), by failing to clearly label containers storing used oil. Specifically, 10 drums containing used oil were not labelled with the words "Used Oil;"
 - c. 30 TEX. ADMIN. CODE §§ 324.12(2) and 324.4(2)(C)(i) and 40 C.F.R. § 279.51, by failing to obtain a used oil registration and EPA ID number prior to conducting used oil activities;
 - d. 30 TEX. ADMIN. CODE § 335.4, by failing to prevent the unauthorized discharge of IHW. Specifically, hydrochloric acid rinsate washout water was discharged to a soil area covering approximately 450 square feet west of the southwest corner of the processing building; and

- e. 30 TEX. ADMIN. CODE § 324.12(3) and 40 C.F.R. § 279.55, by failing to maintain an adequate Waste Analysis Plan. Specifically, the plan does not outline all required testing or process knowledge, frequency of testing and analysis conducted onsite or offsite.
2. Respondent received notice of the violations on or about June 14, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph No. 5. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions 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: SETX Clearwater Environmental, L.L.C., Docket No. 2010-1047-MLM-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Respondent shall cease any additional discharge of used oil and IHW at the Facility and begin proper remediation and removal of contaminated soil (Allegations 1.a. and 1.d.);
 - b. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Appropriately mark each used oil container with the words "Used Oil," in accordance with 30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c) (Allegation 1.b.);
 - ii. Complete and submit the required used oil registration forms for the Facility, in accordance with 30 TEX. ADMIN. CODE ch. 324 (Allegation 1.c.) to:

Registration and Reporting Section
Permitting & Registration Support Division, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- iii. Begin maintaining an adequate Waste Analysis Plan, in accordance with 30 TEX. ADMIN. CODE § 324.12 (Allegation 1.e.); and
 - iv. Submit a report which includes a summary of remediation activities that took place, confirming that all contaminated soil at the Facility has been properly remediated. Remediation activities will address all areas where stained soil and soil contaminated with oil and IHW spills/stains were observed, including but not limited to the sludge drying bay area and processing building. The report shall include analytical results of soil confirmation sampling which characterizes the effectiveness of contaminated soil removal in all contaminated areas, and documentation that contaminated soil as been disposed of in an authorized manner.
- c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.iv. The certification shall be notarized by a State of Texas Notary Public and shall include the following certification language:

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

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

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

and:

Derek Eades, Waste Section Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Freeway
Beaumont, Texas 77703-1830

- 3. All relief not expressly granted in this Agreed Order is denied.
- 4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to

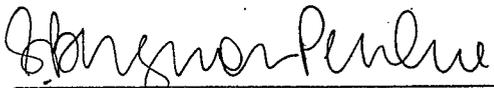
personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/28/2011

Date

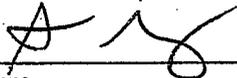
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of SETX Clearwater Environmental, L.L.C., and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting 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



Name (Printed or typed)

SAEED ALLY

Authorized representative of

SETX Clearwater Environmental, L.L.C.

Date

3/14/11

Title

CEO