CAPTION: Docket No. 2010-1683-MWD-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Aus-Tex Parts & Services, Ltd. in Hays County; RN102314218; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Samuel Short, Laurie Eaves)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1683-MWD-E **TCEQ ID:** RN102314218 **CASE NO.:** 40540

RESPONDENT NAME: Aus-Tex Parts & Services, Ltd.

ORDER TYPE:		
__1660 AGREED ORDER	X FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Railyard Plant, located approximately 2.6 miles northwest of the intersection of State Highway 21 and County Road 127, Hays County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: ___ **Yes** X **No**

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 25, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. Donald Dempsey, Owner, Aus-Tex Parts & Services, Ltd., P.O. Box 17547, Austin, Texas 78760
Mr. David Buchanan, Partner, Aus-Tex Parts & Services, Ltd., P.O. Box 17547, Austin, Texas 78760
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** September 14, 2010 **Date of NOV/NOE Relating to this Case:** September 29, 2010 (NOE) **Background Facts:** This was a records review. **WATER** 1) Failed to comply with the permitted effluent limits for total suspended solids, biochemical oxygen demand, and dissolved oxygen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014060001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6]. 2) Failed to submit a complete Discharge Monitoring Report ("DMR") [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0014060001, Monitoring and Reporting Requirements No. 1]. 3) Failed to collect and analyze samples for required parameters at the frequency specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(11)(a) and 319.4 and TPDES Permit No. WQ0014060001, Monitoring and Reporting Requirements No. 3.a]. 4) Failed to submit the annual sludge report for the monitoring period ending July 31, 2009 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014060001, Sludge Provisions].	**Total Assessed:** $13,510 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $13,510 **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** __ **Yes** X **No** **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** The Respondent has three repeated enforcement actions over the prior five year period for the same violation (Agreed Order Docket No. 2007-1710-MWD-E, and NOVs dated May 5, 2009 and August 27, 2010).	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent replaced the return activated sludge line and returned to compliance with the permitted effluent limits by June 30, 2010. **Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order: i. Submit a revised DMR for monitoring period ending November 30, 2009 to include the value for pH maximum; and ii. Update the Facility's operational guidance and conduct employee training to ensure that all samples are collected and analyzed for the permitted parameters at the minimum frequency, and to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and the timely submittal of signed and certified annual sludge reports. b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. and a.ii.

Additional ID No(s).: WQ0014060001

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES						
Assigned	4-Oct-2010					
PCW	14-Dec-2010	**Screening**	11-Oct-2010	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	Aus-Tex Parts & Services, Ltd.		
Reg. Ent. Ref. No.	RN102314218		
Facility/Site Region	11-Austin	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	40540	**No. of Violations**	4
Docket No.	2010-1683-MWD-E	**Order Type**	Findings
Media Program(s)	Water Quality	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Samuel Short
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1*: **$6,600**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **130.0%** Enhancement — *Subtotals 2, 3, & 7*: **$8,580**

Notes: Enhancement for nineteen months of self-reported effluent violations, three NOVs with same/similar violations, one Agreed Order with denial within the last five years.

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*: **$750**

Economic Benefit — **0.0%** Enhancement* — *Subtotal 6*: **$0**

Total EB Amounts $491
Approx. Cost of Compliance $3,275
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: **$14,430**

OTHER FACTORS AS JUSTICE MAY REQUIRE — **-6.4%** — *Adjustment*: **-$920**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction in the penalty so that monthly self-reported effluent violations do not overly-impact the penalty amount and to prevent double enhancement of the penalty for same violations that were self reported. Recommended enhancement for the avoided cost associated with violation nos. 4 and 5.

Final Penalty Amount: **$13,510**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: **$13,510**

DEFERRAL — **0.0%** Reduction — *Adjustment*: **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY: **$13,510**

Screening Date 11-Oct-2010 **Docket No.** 2010-1683-MWD-E **PCW**

Respondent Aus-Tex Parts & Services, Ltd.

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Case ID No. 40540

Reg. Ent. Reference No. RN102314218

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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 (*number of NOVs meeting criteria*)	22	110%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*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%

		Please Enter Yes or No	
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) 130%

>> 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 nineteen months of self-reported effluent violations, three NOVs with same/similar violations, one Agreed Order with denial within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 130%

Screening Date 11-Oct-2010 **Docket No.** 2010-1683-MWD-E **PCW**

Respondent Aus-Tex Parts & Services, Ltd. *Policy Revision 2 (September 2002)*

Case ID No. 40540 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102314218

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014060001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with the permitted effluent limits, as documented during a record review conducted on September 14, 2010 and shown in the attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate biochemical oxygen demand 5-Day ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS"), and dissolved oxygen were also considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 3 — 181 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction — $750

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

Notes: The Respondent returned to compliance by June 30, 2010.

Violation Subtotal $2,250

Economic Benefit (EB) for this violation

Estimated EB Amount $175

Statutory Limit Test

Violation Final Penalty Total $5,758

This violation Final Assessed Penalty (adjusted for limits) $5,758

Economic Benefit Worksheet

Respondent Aus-Tex Parts & Services, Ltd.
Case ID No. 40540
Reg. Ent. Reference No. RN102314218
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	$2,500	30-Jun-2009	30-Jun-2010	1.00	$8	$167	$175
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 to replace the return activated sludge line. Date required is the first date of non-compliance. The final date is the date the Respondent returned to 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 $175

Screening Date 11-Oct-2010 **Docket No.** 2010-1683-MWD-E **PCW**

Respondent Aus-Tex Parts & Services, Ltd. *Policy Revision 2 (September 2002)*

Case ID No. 40540 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102314218

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0014060001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending November 30, 2009. Specifically, the DMR did not have the value for pH maximum.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			
	Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: At least 70% of the rule requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 1 — 448 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single events 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 $100

Economic Benefit (EB) for this violation

Estimated EB Amount $23

Statutory Limit Test

Violation Final Penalty Total $215

This violation Final Assessed Penalty (adjusted for limits) $215

Economic Benefit Worksheet

Respondent Aus-Tex Parts & Services, Ltd.
Case ID No. 40540
Req. Ent. Reference No. RN102314218
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	$25	20-Dec-2009	27-May-2011	1.43	$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)	$250	1-Sep-2009	27-May-2011	1.73	$22	n/a	$22

Notes for DELAYED costs

The estimated cost to submit the DMR. Date required is the date the report was due and the final date is the estimated date of compliance. The estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly and annual DMRs and the timely submittal of signed and certified annual sludge reports. Date required is the date the report was due 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 $275

TOTAL $23

Screening Date 11-Oct-2010 **Docket No.** 2010-1683-MWD-E **PCW**

Respondent Aus-Tex Parts & Services, Ltd. *Policy Revision 2 (September 2002)*

Case ID No. 40540 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102314218

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(11)(a) and 319.4 and TPDES Permit No. WQ0014060001, Monitoring and Reporting Requirements No. 3.a.

Violation Description Failed to collect and analyze samples for required parameters at the frequency specified in the permit. Specifically, no samples were collected or analyzed for the monitoring period ending May 31, 2009.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			
	Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 1 — 31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly 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 $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $183

Statutory Limit Test

Violation Final Penalty Total $5,383

This violation Final Assessed Penalty (adjusted for limits) $5,383

Economic Benefit Worksheet

Respondent Aus-Tex Parts & Services, Ltd.
Case ID No. 40540
Req. Ent. Reference No. RN102314218
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	$250	1-May-2009	27-May-2011	2.07	$26	n/a	$26
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 update the Facility's operational guidance and conduct employee training to ensure that all samples are collected and analyzed for the permitted parameters at the minimum frequency. Date required is the date the sampling was due and 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]	$150	1-May-2009	31-May-2009	1.00	$8	$150	$158
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to collect and analyze samples for required parameters ($25 per parameter). Date required is the first day of the month the sampling was due. Final date is the last day of the month the sampling was due.						

Approx. Cost of Compliance $400

TOTAL $183

Screening Date 11-Oct-2010 **Docket No.** 2010-1683-MWD-E **PCW**

Respondent Aus-Tex Parts & Services, Ltd. *Policy Revision 2 (September 2002)*

Case ID No. 40540 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102314218

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014060001, Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2009, as documented during a record review conducted on September 14, 2010. Specifically, the annual sludge report was due by September 1, 2009 and was not submitted.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

OR

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1 — 405 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

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 $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $110

Statutory Limit Test

Violation Final Penalty Total $2,153

This violation Final Assessed Penalty (adjusted for limits) $2,153

Economic Benefit Worksheet

Respondent Aus-Tex Parts & Services, Ltd.
Case ID No. 40540
Req. Ent. Reference No. RN102314218
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	The estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished is included in violation no. 2.						
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]	$100	1-Aug-2008	31-Jul-2009	1.92	$10	$100	$110
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated amount required to submit the annual sludge report for the monitoring period ending July 31, 2009.						

Approx. Cost of Compliance $100

TOTAL $110

Effluent Limit Violation Table

Respondent	Aus-Tex Parts & Services, Ltd.
ID Number(s)	TPDES Permit No. WQ0014060001; Case No. 40540
Docket Number	2010-1683-MWD-E
Enf. Coordinator	Samuel Short
Corresponds to Violation Number:	1

EFFLUENT PARAMETER

Permit Limit

Month/Year	TSS Daily Average Conc. 15 mg/L	TSS Single Grab Max. Conc. 60 mg/L	BOD Daily Average Conc. 10 mg/L	BOD Single Grab Max. Conc. 35 mg/L	DO Monthly Min. 2 mg/L				
June 2009	17	c	42.25	72	1.99				
July 2009	18.75	c	c	c	c				
December 2009	30.25	94	c	c	c				
January 2010	c	c	11.75	c	c				
February 2010	44.5	289	25.66	129	c				
March 2010	19.2	c	c	c	c				
April 2010	24.5	c	c	c	c				

Name	Abbreviation
milligrams per liter	mg/L
biochemical oxygen demand	BOD
total suspended solids	TSS
dissolved oxygen	DO
maximum	Max.
minimum	Min.
concentration	Conc.
compliant	c

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601121122	Aus-Tex Parts & Services, Ltd.	Classification: AVERAGE	Rating: 2.92
Regulated Entity:	RN102314218	RAILYARD PLANT	Classification: AVERAGE	Site Rating: 2.83
ID Number(s):	WASTEWATER		PERMIT	WQ0014060001
	WASTEWATER		EPA ID	TX0117676
Location:	approximately 2.6 miles northwest of the intersection of State Highway 21 and County Road 127 in Hays County, Texas			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	October 07, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 07, 2005 to October 07, 2010			

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

Name: Samuel Short Phone: (512) 239-5363

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: 9/1/2010 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.

Effective Date: 04/28/2008 ADMINORDER 2007-1710-MWD-E

Classification: Moderate

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

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permitted effluent limits.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit sludge discharge monitoring report at the intervals specified in the permit.

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	11/23/2005	(491970)
2	11/28/2005	(491971)
3	12/21/2005	(491972)
4	03/14/2006	(491968)
5	03/14/2006	(491969)
6	03/14/2006	(491973)
7	07/11/2006	(506029)
8	07/11/2006	(528261)
9	07/11/2006	(528262)
10	09/01/2006	(528263)

11	09/27/2006	(630814)
12	11/02/2006	(630816)
13	11/21/2006	(630818)
14	01/12/2007	(535877)
15	01/18/2007	(630820)
16	02/05/2007	(630822)
17	03/14/2007	(630806)
18	04/17/2007	(630807)
19	04/17/2007	(630808)
20	06/11/2007	(630809)
21	07/17/2007	(630810)
22	08/01/2007	(630811)
23	09/17/2007	(593803)
24	10/08/2007	(630815)
25	10/26/2007	(630812)
26	10/26/2007	(630813)
27	10/26/2007	(630817)
28	11/20/2007	(630819)
29	12/19/2007	(630821)
30	01/18/2008	(630823)
31	02/20/2008	(677136)
32	03/20/2008	(677137)
33	04/21/2008	(677138)
34	05/20/2008	(695780)
35	06/20/2008	(695781)
36	07/18/2008	(695782)
37	09/19/2008	(717353)
38	10/20/2008	(717354)
39	10/23/2008	(717352)
40	11/20/2008	(732718)
41	12/18/2008	(755966)
42	01/16/2009	(732719)
43	02/26/2009	(755963)
44	03/20/2009	(755964)
45	04/20/2009	(755965)
46	05/22/2009	(744025)
47	06/11/2009	(745258)
48	10/19/2009	(776641)
49	12/21/2009	(818999)
50	08/19/2010	(868827)
51	08/31/2010	(830219)
52	10/01/2010	(863537)

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

Date: 11/30/2005 (491972)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (528261) CN601121122
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (528262) CN601121122
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2006 (630814) CN601121122
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 01/15/2007 (535877) CN601121122
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
PERMIT CONDITINS (2) Compliance (g) PERMIT
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)
Description: The facility experienced an unauthorized discharge of wastewater from the collection system due to a lift station failure.
Date 02/28/2007 (630807) CN601121122
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 04/30/2007 (630809) CN601121122
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 05/31/2007 (630810) CN601121122
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 09/30/2007 (630817)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 10/31/2007 (630819) CN601121122
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 01/31/2008 (677136)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 04/30/2008 (695780)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 01/31/2009 (755963) CN601121122
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 05/26/2009 (744025) CN601121122
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.3(e)(4)(D)
Description: Failure to provide required alarm systems for lift stations
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet effluent limits

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
Description: Failure to maintain adequate sampling records for chlorine analysis.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to provide noncompliance notification for exceeding permit effluent limits by greater than 40%.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to have an operator with required level of license at the facility a minimum of five days per week.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirement #4 PERMIT
Description: Failure to provide adequate safeguards to prevent the discharge of untreated wastes or inadequately treated wastes during an electrical power failure.

Date 06/30/2009
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 07/31/2009
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 08/27/2010 (830219) CN601121122
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014060-001 PERMIT
Description: The facility failed to meet its permitted effluent limits for BOD and TSS on several occasions.

Date 12/31/2009
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
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 02/28/2010
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 03/31/2010
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date 04/30/2010

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

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING AUS-TEX PARTS & SERVICES, LTD. RN102314218	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1683-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aus-Tex Parts & Services, Ltd. ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns a wastewater treatment facility located approximately 2.6 miles northwest of the intersection of State Highway 21 and County Road 127 in Hays County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. During a record review on September 14, 2010, TCEQ staff documented the following effluent values based on the self-reported discharge monitoring reports ("DMR").

	EFFLUENT PARAMETER				
	Permit Limit				
	TSS Daily Average Conc.	TSS Single Grab Max. Conc.	BOD Daily Average Conc.	BOD Single Grab Max. Conc.	DO Monthly Min.
Month/Year	15 mg/L	60 mg/L	10 mg/L	35 mg/L	2 mg/L
June 2009	17	c	42.25	72	1.99
July 2009	18.75	c	c	c	c
December 2009	30.25	94	c	c	c
January 2010	c	c	11.75	c	c
February 2010	44.5	289	25.66	129	c
March 2010	19.2	c	c	c	c
April 2010	24.5	c	c	c	c

Name	Abbreviation
milligrams per liter	mg/L
biochemical oxygen demand	BOD
total suspended solids	TSS
dissolved oxygen	DO
maximum	Max.
minimum	Min.
concentration	Conc.
compliant	c

4. During a record review on September 14, 2010, TCEQ staff documented that the discharge monitoring report ("DMR") for the monitoring period ending November 30, 2009 did not have the value for pH maximum.

5. During a record review on September 14, 2010, TCEQ staff documented that no samples were collected or analyzed for the monitoring period ending May 31, 2009.

6. During a record review on September 14, 2010, TCEQ staff documented that the annual sludge report for the monitoring period ending July 31, 2009 was due by September 1, 2009 and was not submitted.

7. The Respondent received notice of the violations on October 3, 2010.

8. The Executive Director recognizes that the Respondent replaced the return activated sludge line and returned to compliance with the permitted effluent limits by June 30, 2010.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014060001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 6.

3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit a complete DMR, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0014060001, Monitoring and Reporting Requirements No. 1.

4. As evidenced by Findings of Fact No. 5, the Respondent failed to collect and analyze samples for required parameters at the frequency specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(11)(a) and 319.4 and TPDES Permit No. WQ0014060001, Monitoring and Reporting Requirements No. 3.a.

5. As evidenced by Findings of Fact No. 6, the Respondent failed to submit the annual sludge report for the monitoring period ending July 31, 2009, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014060001, Sludge Provisions.

6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

7. An administrative penalty in the amount of Thirteen Thousand Five Hundred Ten Dollars ($13,510) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Thirteen Thousand Five Hundred Ten Dollar ($13,510) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Thirteen Thousand Five Hundred Ten Dollars ($13,510) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aus-Tex Parts & Services, Ltd., Docket No. 2010-1683-MWD-E" to:

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

2. The Respondent shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order:

      i. Submit a revised DMR for monitoring period ending November 30, 2009 to include the value for pH maximum to:

         Compliance Monitoring Section
         Enforcement Division, MC 224
         Texas Commission on Environmental Quality
         P.O. Box 13087
         Austin, Texas 78711-3087

      ii. Update the Facility's operational guidance and conduct employee training to ensure that all samples are collected and analyzed for the permitted parameters at the minimum frequency, and to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and the timely submittal of signed and certified annual sludge reports, in accordance with TPDES Permit No. WQ0014060001, Monitoring and Reporting Requirements Nos. 1 and 3.a. and Sludge Provisions.

   b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation

including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i and 2.a.ii. 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 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
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.

8. 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.

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. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

Date 4/4/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of Aus-Tex Parts & Services, Ltd. I am authorized to agree to the attached Agreed Order on behalf of Aus-Tex Parts & Services, Ltd., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Aus-Tex Parts & Services, Ltd. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

February 24, 2011
Date

David Buchanan
Name (Printed or typed)
Authorized Representative of
Aus-Tex Parts & Services, Ltd.

Partner
Title

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