

CAPTION: Docket No. 2010-1892-IWD-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of VAM USA, LLC in Harris County; RN102186194; 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. (Evette Alvarado, Laurie Eaves)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2010-1892-IWD-E **TCEQ ID:** RN102186194 **CASE NO.:** 40728
RESPONDENT NAME: VAM USA, LLC

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

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

SITE WHERE VIOLATION(S) OCCURRED: VAM USA Facility, located approximately 0.5 mile east of the intersection of Hardy Road and Richey Road, approximately two miles south of Farm-to-Market Road 1960, Harris County

TYPE OF OPERATION: Pipe and coupling threading and coating facility with an associated wastewater treatment facility

SMALL BUSINESS: Yes 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 May 2, 2011. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732
TCEQ Enforcement Coordinator: Ms. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. M. Judson Wallace, President, VAM USA, LLC, 19210 East Hardy Road, Houston, Texas 77073
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 27, 2010</p> <p>Date of NOV/NOE Relating to this Case: November 2, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>1) Failed to comply with permitted effluent limits for total zinc, total nickel, and total aluminum [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003420000, Effluent Limitations and Monitoring Requirements No. 1, Outfalls 001 and 003].</p> <p>2) Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0003420000, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$71,424</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$35,712</p> <p>Total Paid to General Revenue: \$35,712</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification:</p> <p>Human health or the environment has been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that, by November 17, 2010, the Respondent submitted the DMRs for Outfalls 002 and 003.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Update operational guidance and conduct employee training to ensure that all monitoring results are submitted in a timely manner; and</p> <p>ii. Submit the annual monitoring results for total cadmium, total chromium, total cyanide, total silver, and total toxic organics for Outfall 001.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a.i. and a.ii.</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0003420000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p> <p>d. The certification required by Ordering Provision b. and c. shall include detailed supporting</p>

		documentation including photographs, receipts, and/or other records to demonstrate compliance.
--	--	--

Additional ID No(s): WQ0003420000

Attachment A
Docket Number: 2010-1892-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: VAM USA, LLC

Penalty Amount: Seventy-One Thousand Four Hundred Twenty-Four Dollars (\$71,424)

SEP Offset Amount: Seventeen Thousand Eight Hundred Fifty-Six Dollars (\$17,856)

Type of SEP: Pre-approved

Third-Party Recipient: Gulf Coast Waste Disposal Authority - River, Lakes, Bays, and Bayous Trash Bash

Location of SEP: Harris County

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

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Gulf Coast Waste Disposal Authority to be used for the River, Lakes, Bays, and Bayous Trash Bash Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Trash Bash is an annual event that entails the use of volunteers to clean up trash and pollutants from Galveston Bay and waterways in the San Jacinto watershed. The project has resulted in the removal of an average of 141.7 tons of trash and 729 abandoned tires annually from these waterways. SEP monies will be used to pay for materials, supplies, disposal cost and transportation cost directly associated with the clean up of trash and pollutants from the Galveston Bay and waterways in the San Jacinto watershed.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The Project will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

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

2. Performance Schedule

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

Gulf Coast Waste Disposal Authority
Rivers, Lakes, Bays, and Bayous Trash Bash
Attention: Lori Gernhardt
910 Bay Area Boulevard
Houston, TX 77052

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

VAM USA, LLC
Agreed Order - Attachment A

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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

Attachment B
Docket Number: 2010-1892-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: VAM USA, LLC

Penalty Amount: **Seventy-One Thousand Four Hundred Twenty-Four Dollars (\$71,424)**

SEP Offset Amount: **Seventeen Thousand Eight Hundred Fifty-Six Dollars (\$17,856)**

Type of SEP: **Pre-approved**

Third-Party Recipient: **Armand Bayou Nature Center - Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project**

Location of SEP: **Harris County**

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment B.

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Armand Bayou Nature Center to be used for the Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to pay for the labor and materials costs associated with conducting prescribed burns, removing non-native trees, and for planting native trees and plants.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by increasing ecosystem functionality. It will contribute to the overall prairie health by suppressing invasive brush species, increasing soil fertility, and promoting plant vigor.

VAM USA, LLC
Agreed Order - Attachment B

C. Minimum Expenditure

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

2. Performance Schedule

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

Armand Bayou Nature Center
Attn: Mark Kramer
PO Box 58828
Houston, Texas 77258

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Nov-2010	Screening	15-Nov-2010	EPA Due	
	PCW	22-Nov-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	VAM USA, LLC
Reg. Ent. Ref. No.	RN102186194
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40728	No. of Violations	4
Docket No.	2010-1892-IWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Evette Alvarado
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$27,900**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **166.0%** Enhancement **Subtotals 2, 3, & 7** **\$46,314**

Notes: Enhancement for 24 months of self-reported effluent violations, four NOV's with same/similar violations, three NOV's with dissimilar violations, and one order with denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts \$269
Approx. Cost of Compliance \$10,450
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$74,214**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-3.8%** **Adjustment** **-\$2,790**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction so self-reported effluent violations do not overly impact the penalty amount.

Final Penalty Amount **\$71,424**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$71,424**

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 **\$71,424**

Screening Date 15-Nov-2010

Docket No. 2010-1892-IWD-E

PCW

Respondent VAM USA, LLC

Policy Revision 2 (September 2002)

Case ID No. 40728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102186194

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	28	140%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	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%

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) 166%

>> 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 24 months of self-reported effluent violations, four NOVs with same/similar violations, three NOVs with dissimilar violations, and one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 166%

Screening Date 15-Nov-2010

Docket No. 2010-1892-IWD-E

PCW

Respondent VAM USA, LLC

Policy Revision 2 (September 2002)

Case ID No. 40728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102186194

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0003420000, Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 001

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on October 27, 2010, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate total zinc and total nickel to determine if the discharged amounts of pollutants exceeded levels protective of human health and the environment. As a result of these discharges, human health and the environment has been exposed to significant amounts of pollutants that exceed protective levels.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2

62 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Two monthly events are recommended for the months of December 2009 and January 2010.

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 \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$247

Violation Final Penalty Total \$25,600

This violation Final Assessed Penalty (adjusted for limits) \$25,600

Economic Benefit Worksheet

Respondent VAM USA, LLC
Case ID No. 40728
Reg. Ent. Reference No. RN102186194
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				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)	\$10,000	27-Oct-2010	25-Apr-2011	0.49	\$247	n/a	\$247

Notes for DELAYED costs

Estimated cost to determine the cause of non-compliance and make necessary repairs and adjustments to the Facility to ensure compliance with permitted effluent limits. Date required is the date of the record review. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$247

Screening Date 15-Nov-2010

Docket No. 2010-1892-IWD-E

PCW

Respondent VAM USA, LLC

Policy Revision 2 (September 2002)

Case ID No. 40728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102186194

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0003420000, Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001 and 003

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on October 27, 2010, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate total zinc and total nickel to determine if the discharged amounts of pollutants exceeded levels protective of human health and the environment. Total aluminum was also considered. As a result of these discharges, human health and the environment has been exposed to significant amounts of pollutants which do not exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 6

150 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Five monthly events are recommended for the months of October and November 2009, and February, March, and April 2010 for Outfall No. 001, and one monthly event is recommended for the month of February 2010 for Outfall No. 003.

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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$38,400

This violation Final Assessed Penalty (adjusted for limits) \$38,400

Economic Benefit Worksheet

Respondent VAM USA, LLC
Case ID No. 40728
Reg. Ent. Reference No. RN102186194
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Economic benefit is included with Violation No. 1.

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

\$0

TOTAL

\$0

Screening Date 15-Nov-2010
Respondent VAM USA, LLC
Case ID No. 40728
Reg. Ent. Reference No. RN102186194
Media [Statute] Water Quality
Enf. Coordinator Evette Alvarado

Docket No. 2010-1892-IWD-E

PCW

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

Violation Number 3
Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0003420000, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on October 27, 2010. Specifically, the discharge monitoring reports ("DMRs") for the monitoring periods ending 11/30/2009, 12/31/2009, 01/31/2010, 02/28/2010, and 03/31/2010 for Outfall No. 002, and the DMRs for the monitoring periods ending 11/30/2009, 12/31/2009, 01/31/2010, and 03/31/2010 for Outfall No. 003 were not submitted until November 17, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes

At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$900

Nine single events are recommended, one for each DMR.

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 \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$2,304

This violation Final Assessed Penalty (adjusted for limits) \$2,304

Economic Benefit Worksheet

Respondent VAM USA, LLC
Case ID No. 40728
Reg. Ent. Reference No. RN102186194
Media Violation No. Water Quality
 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	\$250	27-Oct-2010	25-Apr-2011	0.49	\$6	n/a	\$6
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 operational guidance and conduct employee training to ensure that monitoring results are submitted in a timely manner. Date required is the date of the record review. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$250	TOTAL	\$6
-----------------------------------	-------	--------------	-----

Screening Date 15-Nov-2010

Docket No. 2010-1892-IWD-E

PCW

Respondent VAM USA, LLC

Policy Revision 2 (September 2002)

Case ID No. 40728

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102186194

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0003420000, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on October 27, 2010. Specifically, monitoring data for the following parameters were not submitted for the annual monitoring periods ending August 31, 2009 and 2010, for Outfall No. 001: total cadmium, total chromium, total cyanide, total silver, and total toxic organics.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

421 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,000

Two annual events are recommended for the two annual monitoring periods.

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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$5,120

This violation Final Assessed Penalty (adjusted for limits) \$5,120

Economic Benefit Worksheet

Respondent VAM USA, LLC
Case ID No. 40728
Reg. Ent. Reference No. RN102186194
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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-Sep-2009	25-Apr-2011	1.59	\$16	n/a	\$16

Notes for DELAYED costs

Estimated cost to submit the annual monitoring results for Outfall No. 001 for 2009 and 2010. Date required is the date the first annual monitoring results were due. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$16

VAM USA, L.L.C.
 TPDES Permit No. WQ0003420000
 Docket No. 2010-1892-IWD-E

	Outfall No. 001				Outfall No. 003
Violation Month	Total Zinc Daily Avg. Loading (Limit 0.029 lbs/day)	Total Zinc Daily Max. (Limit 0.062 lbs/day)	Total Nickel Daily Avg. Loading (Limit 0.119 lbs/day)	Total Nickel Daily Max. (Limit 0.199 lbs/day)	Total Aluminum Daily Max. Conc. (Limit 1.5 mg/L)
October 2009	0.035	0.090	c	c	c
November 2009	0.082	0.194	0.125	0.424	c
December 2009	0.124	0.324	0.153	0.316	c
January 2010	0.248	0.783	0.549	2.053	c
February 2010	0.076	0.178	c	c	2.45
March 2010	0.092	0.215	c	c	c
April 2010	0.112	0.186	c	c	c

Avg. = Average

lbs/day = pounds per day

mg/L = milligrams per liter

c = compliant

Max. = maximum

Compliance History Report

Customer/Respondent/Owner-Operator: CN603275793 Vam USA LLC Classification: AVERAGE Rating: 3.59

Regulated Entity: RN102186194 VAM USA FACILITY Classification: AVERAGE Site Rating: 3.59

ID Number(s):

STORMWATER	PERMIT	TXR05Y933
AIR NEW SOURCE PERMITS	REGISTRATION	40203
AIR NEW SOURCE PERMITS	REGISTRATION	41462
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG1474G
INDUSTRIAL AND HAZARDOUS WASTE	EPA ID	TXD991304155
INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	33140
WASTEWATER	PERMIT	WQ0003420000
WASTEWATER	EPA ID	TX0084093
WASTEWATER LICENSING	LICENSE	WQ0003420000

Location: Approx. 0.5 mi. east of the intx. of Hardy Rd. and Richey Rd., approx.
2 mi. south of FM 1960, Harris Co., Tx

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 27, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 27, 2005 to October 27, 2010

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

Name: Evette Alvarado Phone: (512) 239 - 2573

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OWNOPR VAM USA LLC
4. If Yes, who was/were the prior owner(s)/operator(s)?

OWN	SC Pipe Services, Inc.
OWN	SMI Oil Field Services, Inc.
OWN	Vallourec Industries, Inc.
5. When did the change(s) in owner or operator occur? 12/27/2007
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: 06/05/2008	ADMINORDER 2007-1551-IWD-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 permit effluent limits as documented by a TCEQ record review of self-reported data.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)	
30 TAC Chapter 319, SubChapter A 319.7(d)	
Rqmt Prov: Self-reporting Requirement PERMIT	

Description: Failure to timely submit the DMRs for the monitoring periods ending June 30 and July 31, 2006 at outfalls 002 and 003, as documented by a TCEQ record review.

Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.4
Rqmt Prov: WQ0003420000 PERMIT

Description: Failed to monitor for each parameter included in the permit, in violation of 30 TEX. ADMIN. CODE § 319.4 and TPDES Permit No. WQ0003420000, Monitoring and Reporting Requirements No. 1. Specifically the Respondents did not analyze total cadmium, total chromium, total cyanide, total silver, and total toxic organics for the annual monitoring period ending August 31, 2006, as documented by a record review conducted on July 17, 2007.

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	02/27/2006	(476605)
2	11/21/2005	(476607)
3	12/15/2005	(476608)
4	01/26/2006	(476609)
5	04/03/2006	(503573)
6	06/01/2006	(503574)
7	07/03/2006	(525926)
8	08/02/2006	(525927)
9	09/13/2006	(525928)
10	12/05/2006	(532129)
11	02/22/2007	(550341)
12	10/06/2006	(550342)
13	10/25/2006	(550343)
14	12/04/2006	(550344)
15	01/16/2007	(550345)
16	08/07/2007	(568001)
17	03/28/2007	(586267)
18	04/23/2007	(586268)
19	05/25/2007	(586269)
20	06/27/2007	(586270)
21	07/27/2007	(586271)
22	01/03/2007	(586272)
23	08/07/2007	(593321)
25	09/19/2007	(604669)
26	10/19/2007	(604670)
27	11/20/2007	(624317)
28	12/20/2007	(624318)
29	01/22/2008	(624319)
30	11/18/2008	(730762)
31	11/18/2008	(730763)
32	12/09/2008	(730764)
33	12/09/2008	(730765)
34	11/21/2008	(730766)
35	11/21/2008	(730767)
36	12/09/2008	(730768)
37	11/21/2008	(730769)
38	11/21/2008	(730770)

39 12/15/2008 (730771)

40 12/15/2008 (730772)

41 01/19/2009 (730773)

42 02/17/2009 (754003)

43 03/12/2009 (754004)

44 04/13/2009 (754005)

45 07/14/2009 (761229)

46 06/12/2009 (771342)

47 06/12/2009 (771343)

48 01/11/2010 (780186)

49 02/03/2010 (789078)

50 06/04/2010 (802394)

51 02/18/2010 (814007)

52 07/15/2009 (814008)

53 08/18/2009 (814009)

54 09/17/2009 (814010)

55 10/21/2009 (814011)

56 11/17/2009 (814012)

57 12/16/2009 (814013)

58 01/15/2010 (814014)

59 08/07/2007 (827903)

60 07/15/2010 (830251)

61 03/22/2010 (834143)

62 05/20/2010 (834144)

63 05/20/2010 (834145)

64 06/23/2010 (847271)

65 08/24/2010 (861718)

66 10/22/2010 (864893)

67 08/24/2010 (868109)

68 08/25/2010 (869863)

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

Date: 07/31/2006 (525928) CN603275793
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: 12/04/2006 (532129) CN603275793
Self Report? NO Classification: Moderate
Citation: EL&MR, pg. 2, no. 1 PERMIT
Description: Failure to maintain compliance with effluent permit limits for nickel, zinc, and copper. Violations were reported in March 2006 and July 2006. See attached Table 1.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.4
Description: Failure to monitor for total cyanide in 2005. Monitoring must be conducted for total cyanide once a year.

Self Report? NO Classification: Minor
Citation: Other Requirements, pg. 12, no. 1 PERMIT
Description: Failure to submit a verbal noncompliance notification for daily maximum metals violations within 24 hours of becoming aware of the violation, and a written noncompliance notification within five days. The permittee failed to submit a

verbal or written noncompliance notification for total copper in March 2006.
Self Report? NO Classification: Moderate
Citation: EL&MR, pg. 1, no. 1 PERMIT
Description: Failure to monitor for Total Toxic Organics (TTO) or submit a certification statement indicating that there has been no dumping of concentrated toxic organics into the wastestreams since the last discharge monitoring report.

Date: 01/31/2007 (550341) CN603275793
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: 04/30/2007 (586269) CN603275793
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: 06/30/2007 (586271) CN603275793
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: 07/31/2007 (604668) CN603275793
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: 08/07/2007 (593321) CN603275793
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 08/07/2007 (827903) CN603275793
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 08/31/2007 (604669) CN603275793
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 (624317) CN603275793
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: 02/29/2008 (730763) CN603275793
 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: 03/31/2008 (730764) CN603275793
 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 (730765) CN603275793
 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: 05/31/2008 (730766) CN603275793
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2008 (730767) CN603275793
 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: 07/31/2008 (730768) CN603275793
 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: 08/31/2008 (730769) CN603275793
 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: 03/31/2009 (754005) CN603275793
 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: 04/30/2009 (771342) CN603275793
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2009 (814008) CN603275793
 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: 07/15/2009 (761229) CN603275793
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. 0342-000 PERMIT
 Description: Failure to collect composite samples as required.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
 Description: Failure to maintain sample preservation.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
 Description: Failure to provide a National Institute of Standards and Technology (NIST)
 traceable thermometer in the outfall 001 sample storage refrigerator.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
 Description: Failure to provide a backflow prevention device.

Date: 10/31/2009 (814012) CN603275793
 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: 11/30/2009 (814013) CN603275793
 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: 12/31/2009 (814014) CN603275793
 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 (814007) CN603275793
 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 (834143) CN603275793
 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 (834144) CN603275793
 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 (834145) CN603275793
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/04/2010 (802394) CN603275793
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.47(i)
Description: Failure to properly maintain the reduced pressure zone (RPZ) back flow prevention device.

Date: 07/14/2010 (830251)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.62
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11

Description: Failed to have waste determinations for waste generated on-site.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)

Description: Failed to update Notice of Registration within 90 days of the occurrence of such change or of becoming aware of such additional information.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)

Description: Failed to report waste generated on the 2007 Annual Waste Summary.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter Q 335.474
30 TAC Chapter 335, SubChapter Q 335.479

Description: Failed to have a Source Reduction and Waste Minimization Plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.10(a)(1)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT B 262.20(a)

Description: Failed to have correct waste stream (00046951) on manifest 004012622JJK.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(f)(2)
30 TAC Chapter 335, SubChapter E 335.112(a)(8)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(d)(2)
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174

Description: failed to conduct weekly logs for 2007 through 2008 of hazardous waste located in the container storage area.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter O 335.431(a)
40 CFR Chapter 268, SubChapter I, PT 268, SubPT A 268.7(a)(8)

Description: Failed to have 2007 through 2009 Land Disposal Restriction Form for hazardous waste sent on-site or off-site for disposal.

Date: 08/25/2010 (869863) CN603275793

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE
Self Report? NO
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Classification: Moderate

- 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
VAM USA, LLC
RN102186194**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1892-IWD-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 VAM USA, LLC (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent 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 and operates a pipe and coupling threading and coating facility with an associated wastewater treatment facility located approximately 0.5 mile east of the intersection of Hardy Road and Richey Road, approximately two miles south of Farm-to-Market Road 1960 in Harris County, Texas (the “Facility”).

2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on October 27, 2010, TCEQ staff documented the following from a review of self-reported discharge monitoring reports (“DMRs”):

	Outfall No. 001				Outfall No. 003
Violation Month	Total Zinc Daily Avg. Loading (Limit 0.029 lbs/day)	Total Zinc Daily Max. (Limit 0.062 lbs/day)	Total Nickel Daily Avg. Loading (Limit 0.119 lbs/day)	Total Nickel Daily Max. (Limit 0.199 lbs/day)	Total Aluminum Daily Max. Conc. (Limit 1.5 mg/L)
October 2009	0.035	0.090	c	c	c
November 2009	0.082	0.194	0.125	0.424	c
December 2009	0.124	0.324	0.153	0.316	c
January 2010	0.248	0.783	0.549	2.053	c
February 2010	0.076	0.178	c	c	2.45
March 2010	0.092	0.215	c	c	c
April 2010	0.112	0.186	c	c	c

Avg. = Average lbs/day = pounds per day mg/L = milligrams per liter c = compliant Max. = maximum

4. During a record review on October 27, 2010, TCEQ staff documented that the DMRs for the monitoring periods ending November 30, 2009, December 31, 2009, January 31, 2010, February 28, 2010, and March 31, 2010, for Outfall No. 002, and the DMRs for the monitoring periods ending November 30, 2009, December 31, 2009, January 31, 2010, and March 31, 2010, for Outfall No. 003 were not submitted by the 20th day of the following month. TCEQ staff also documented that monitoring data for the following parameters were not submitted for the annual monitoring period ending August 31, 2009, for Outfall No. 001: total cadmium, total chromium, total cyanide, total silver, and total toxic organics.
5. The Respondent received notice of the violations on or about November 7, 2010.
6. The Executive Director recognizes that, by November 17, 2010, the Respondent submitted the DMRs for Outfall Nos. 002 and 003.

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 permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0003420000, Effluent Limitations and Monitoring Requirements No. 1, Outfall Nos. 001 and 003.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0003420000, Monitoring and Reporting Requirements No. 1.
4. 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.
5. An administrative penalty in the amount of Seventy-One Thousand Four Hundred Twenty-Four Dollars (\$71,424) 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 Thirty-Five Thousand Seven Hundred Twelve Dollars (\$35,712) of the administrative penalty. Thirty-Five Thousand Seven Hundred Twelve Dollars (\$35,712) shall be conditionally offset by the Respondent's completion of two Supplemental Environmental Projects ("SEPs").

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 Seventy-One Thousand Four Hundred Twenty-Four Dollars (\$71,424) as set forth in Section II, Paragraph 5 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: VAM USA, LLC, Docket No. 2010-1892-IWD-E" to:

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

2. The Respondent shall implement and complete the SEPs in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 5 above, Thirty-Five Thousand Seven Hundred Twelve Dollars (\$35,712) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEPs defined in Attachments A and B, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreements.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Update operational guidance and conduct employee training to ensure that all monitoring results are submitted in a timely manner; and
 - ii. Submit the annual monitoring results for total cadmium, total chromium, total cyanide, total silver, and total toxic organics for Outfall No. 001 to the following address:

Compliance Monitoring Team
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.a.i and 3.a.ii. The certification shall be in accordance with Ordering Provision No. 3.d.
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0003420000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.
 - d. The certification required by Ordering Provision Nos. 3.b and 3.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

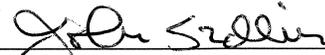
4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any 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.
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 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.

7. 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.
8. 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.
9. 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.
10. 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.
11. 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 VAM USA, LLC. I am authorized to agree to the attached Agreed Order on behalf of VAM USA, LLC, 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, VAM USA, LLC 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

Date 2/10/11

M. JASON WALLACE
Name (Printed or typed)
Authorized Representative of
VAM USA, LLC

PRESIDENT
Title

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

Attachment A
Docket Number: 2010-1892-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: VAM USA, LLC

Penalty Amount: **Seventy-One Thousand Four Hundred Twenty-Four Dollars (\$71,424)**

SEP Offset Amount: **Seventeen Thousand Eight Hundred Fifty-Six Dollars (\$17,856)**

Type of SEP: **Pre-approved**

Third-Party Recipient: **Gulf Coast Waste Disposal Authority - River, Lakes, Bays, and Bayous Trash Bash**

Location of SEP: **Harris County**

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

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Gulf Coast Waste Disposal Authority to be used for the River, Lakes, Bays, and Bayous Trash Bash Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Trash Bash is an annual event that entails the use of volunteers to clean up trash and pollutants from Galveston Bay and waterways in the San Jacinto watershed. The project has resulted in the removal of an average of 141.7 tons of trash and 729 abandoned tires annually from these waterways. SEP monies will be used to pay for materials, supplies, disposal cost and transportation cost directly associated with the clean up of trash and pollutants from the Galveston Bay and waterways in the San Jacinto watershed.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The Project will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

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

2. Performance Schedule

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

Gulf Coast Waste Disposal Authority
Rivers, Lakes, Bays, and Bayous Trash Bash
Attention: Lori Gernhardt
910 Bay Area Boulevard
Houston, TX 77052

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

VAM USA, LLC
Agreed Order - Attachment A

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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

Attachment B
Docket Number: 2010-1892-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: VAM USA, LLC

Penalty Amount: Seventy-One Thousand Four Hundred Twenty-Four Dollars (\$71,424)

SEP Offset Amount: Seventeen Thousand Eight Hundred Fifty-Six Dollars (\$17,856)

Type of SEP: Pre-approved

Third-Party Recipient: Armand Bayou Nature Center - Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project

Location of SEP: Harris County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment B.

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Armand Bayou Nature Center to be used for the Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to pay for the labor and materials costs associated with conducting prescribed burns, removing non-native trees, and for planting native trees and plants.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by increasing ecosystem functionality. It will contribute to the overall prairie health by suppressing invasive brush species, increasing soil fertility, and promoting plant vigor.

VAM USA, LLC
Agreed Order - Attachment B

C. Minimum Expenditure

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

2. Performance Schedule

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

Armand Bayou Nature Center
Attn: Mark Kramer
PO Box 58828
Houston, Texas 77258

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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