

Executive Summary – Enforcement Matter – Case No. 39785  
Intergulf Corporation  
RN101517852  
Docket No. 2010-0888-IHW-E

**Order Type:**  
Agreed Order

**Findings Order Justification:**  
N/A

**Media:**  
IHW

**Small Business:**  
Yes

**Location(s) Where Violation(s) Occurred:**  
10020 Bayport Boulevard, Pasadena, Harris County

**Type of Operation:**  
treatment, storage and disposal facility

**Other Significant Matters:**

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

**Texas Register Publication Date:** June 24, 2011

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$52,600

**Amount Deferred for Expedited Settlement:** N/A

**Amount Deferred for Financial Inability to Pay:** N/A

**Total Paid to General Revenue:** \$26,300

**Total Due to General Revenue:** \$0

**SEP Conditional Offset:** \$26,300

Names of SEPs: (1) Galveston Bay Foundation; (2) Armand Bayou Nature Center

**Compliance History Classifications:**  
Person/CN – Average  
Site/RN – Average

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** March 3, 2010  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** May 21, 2010

***Violation Information***

1. Received and suffered the disposal of a load of industrial hazardous waste (“IHW”) [30 TEX. ADMIN. CODE § 335.2(a) and Industrial Solid Waste Permit No. 39068, Provision No. IV-B-1].
2. Failed to ensure waste manifests were properly completed [30 TEX. ADMIN. CODE § 335.12(a)(2), 40 C.F.R § 265.72(f)(6) and Industrial Solid Waste Permit No. 39068, Provision No. II-C-1-h].

**Corrective Action(s) Completed:**

On February 9, 2011, Respondent was issued a solid waste permit renewal with major amendment which authorizes Respondent to accept certain IHW and which includes procedures for proper completion of manifests, waste screening, and acceptance criteria.

**Technical Requirements:**

N/A

**Date Petition(s) Filed:** October 12, 2010  
**Date Answer(s) Filed:** November 3, 2010  
**SOAH Referral Date:** December 7, 2010  
**Hearing Date(s):**  
Preliminary hearing: January 27, 2011  
Evidentiary hearing: June 28, 2011  
**Settlement Date:** May 25, 2011

***Contact Information***

**TCEQ Attorneys:** Kari L. Gilbreth, Litigation Division, (512) 239-1320  
Lena Roberts, Litigation Division, (512) 239-3400  
**TCEQ SEP Coordinator:** Sharon Blue, Litigation Division, (512) 239-2223  
**TCEQ Enforcement Coordinator:** Clinton Sims, Waste Enforcement Section, (512) 239-6933  
**TCEQ Regional Contact:** Nicole Bealle, Houston Regional Office, (713) 767-3623  
**Respondent:** Brandon Velek, Chief Operating Officer, Intergulf Corporation, 10020 Bayport Blvd, Pasadena, Texas 77507  
**Respondent's Attorney:** Harless R. Benthul, Attorney, Lyric Centre, 440 Louisiana, Suite 900 Houston, Texas 77002

**Attachment A**

**Docket Number: 2010-0888-IHW-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Table A: Case Information**

<b>Respondent:</b>	Intergulf Corporation
<b>Penalty Amount:</b>	Fifty-Two Thousand Six Hundred Dollars (\$52,600)

**Table B: Project One--Galveston Bay Foundation**

<b>Project One Type of SEP:</b>	Pre-approved
<b>Project One Third-Party Recipient:</b>	Galveston Bay Foundation
<b>Project One Name:</b>	The Galveston Bay Restoration 'Marsh Mania'
<b>Project One SEP Offset Amount:</b>	Thirteen Thousand One Hundred Fifty Dollars (\$13,150)
<b>Project One Location of SEP:</b>	Chambers, Galveston, and Harris Counties

**Table C: Project Two--Armand Bayou Nature Center**

<b>Project Two Type of SEP:</b>	Pre-approved
<b>Project Two Third-Party Recipient:</b>	Armand Bayou Nature Center
<b>Project Two Name:</b>	Armand Bayou Nature Center Coastal Tall Grass Prairie Management Prescribed Burn Program and Prairie Restoration Project
<b>Project Two SEP Offset Amount:</b>	Thirteen Thousand One Hundred Fifty Dollars (\$13,150)
<b>Project Two Location of SEP:</b>	San Jacinto River Basin; including Fort Bend, Grimes, Harris, Liberty, Montgomery, San Jacinto, Walker, and Waller Counties

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

**1. Project Description**

A. Project Information

Project One—The Galveston Bay Restoration 'Marsh Mania'

Respondent shall contribute the SEP Offset Amount to the Project One Third-Party Recipient named above in Table B. The contribution will be to **The Galveston Bay Foundation** for

*The Galveston Bay Restoration 'Marsh Mania.'* The contribution will be used in accordance with the Supplemental Environmental Project between the Project One Third-Party Recipient and the TCEQ (the "Project One"). Specifically, the SEP Offset Amount will be used to restore shoreline elevations, grow plants for shoreline restoration, and plant new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The higher elevation can then be planted with emergent vegetation. The SEP Offset Amount will be used to pay for the direct cost of the implementation of the project, including material, equipment and labor costs.

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

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

Project Two—Armand Bayou Nature Center Coastal Tall Grass Prairie Management Prescribed Burn Program and Prairie Restoration Project

Respondent shall contribute the SEP Offset Amount to the Project Two Third-Party Recipient named above in Table C. The contribution will be to **Armand Bayou Nature Center** for *Armand Bayou Nature Center Coastal Tall Grass Prairie Management Prescribed Burn Program and Prairie Restoration Project*. The contribution will be used in accordance with the Supplemental Environmental Project between the Project Two Third-Party Recipient and the TCEQ (the "Project Two"). Specifically, the SEP Offset Amount will be used to protect remnants of this region's original ecosystems including wetlands, bottomland forest, and tall-grass prairies. This environmentally significant area has been designated as one of only four Texas State Coastal Preserves and is home to more than 370 species of birds, mammals, reptiles, and amphibians. Additionally, Project Two lies along the largest migratory bird route in North America and it is a crucial stop over for migrating birds.

Description of Project Two: The tall-grass prairie was once a common ecosystem in Texas and the United States. Today more than 99% of this habitat has been lost and the remainder is highly fragmented. The Project Two Third-Party Recipient manages 650 acres of tall grass prairie wetland. Two hundred-fifty acres are in need of restoration. Prescribed burning is one stewardship tool used to maintain a tall grass prairie ecosystem. If the prairie is not maintained, it can be destroyed by invasive species which primarily include the Chinese Tallow tree and other woody plants. Historically, prairies were managed by grazing, natural fires set by lightning, or fires set by Native Americans to aid in their hunter-gatherer lifestyle. The Project Two Third-Party Recipient must employ prescribed burning methods and can not use more natural stewardship tools due to its location in the center of a highly urbanized and industrialized area. The Project Two Third-Party Recipient's Stewardship Coordinator, who directs the Prescribed Burning program, has been certified by the Texas Parks and Wildlife Department to conduct prescribed burns. The SEP Offset Amount will be used to pay for the labor and materials costs associated with conducting prescribed burns, mowing, removing non-native trees, and for planting native trees and plants.

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

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

Project One: The Galveston Bay Restoration 'Marsh Mania'

Project One will provide a discernible environmental benefit by providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

Project Two: Armand Bayou Nature Center Coastal Tall Grass Prairie Management Prescribed Burn Program and Prairie Restoration Project

Project Two's area is largely wet prairie. These prairie wetland complexes play a critical role in nature. They provide numerous ecosystem services including storm water detention and purification and wildlife habitat. The focus of the restoration effort has been to control non-native invasive plants and restore the native plant community. This effort will result in increased ecosystem functionality. The Project Two Third-Party Recipient actively manages over 650 acres of this valuable wet prairie habitat. The role of fire in grassland systems is critical. Grasslands are considered by most experts to be a fire dependent plant community. Fire contributes to the overall prairie health by suppressing invasive brush species, increasing soil fertility and promoting prairie plant vigor. The Project Two Third-Party Recipient will quantify benefits by reporting the amount of unwanted species removed.

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Offset Amounts to the Project One Third-Party Recipient and the Project Two Third-Party Recipient (collectively referred to as "Third-Party Recipients") and comply with all other provisions of this SEP.

**2. Performance Schedule**

Project One: The Galveston Bay Restoration 'Marsh Mania'

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

Galveston Bay Foundation  
Attention: Bob Stokes, President, General Council  
17234-A Highway 3  
Webster, Texas 77598

Project Two: Armand Bayou Nature Center Coastal Tall Grass Prairie Management Prescribed Burn Program and Prairie Restoration Project

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

Armand Bayou Nature Center  
Mark Kramer, Stewardship Coordinator  
PO Box 58828  
Houston, Texas 77258

### 3. Records and Reporting

Concurrent with the payments of the SEP Offset Amounts, Respondent shall provide the Litigation Division SEP Coordinator with a copy of the checks and transmittal letters indicating full payment of the SEP Offset Amounts due to the Third-Party Recipients. Respondent shall mail a copy of the checks and transmittal letters to:

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

### 4. Failure to Fully Perform

If 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 Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete Project One and/or Project Two, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

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

### 5. Publicity

Any public statements concerning this SEP made by or on behalf of 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**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	24-May-2010	<b>Screening</b>	26-May-2010	<b>EPA Due</b>	
	<b>PCW</b>	22-Sep-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Intergulf Corporation	
<b>Reg. Ent. Ref. No.</b>	RN101517852	
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b> Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	39785	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-0888-IHW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Clinton Sims
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$52,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	24.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$12,600
<b>Notes</b>	Enhancement for one prior order containing a denial of liability and two notice of violations without same or similar violations.		
<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b> \$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$12,500
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$234	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$5,500		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$52,600
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
	<b>Final Penalty Amount</b> \$52,600

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$52,600
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$52,600
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**Screening Date** 26-May-2010

**Docket No.** 2010-0888-IHW-E

**PCW**

**Respondent** Intergulf Corporation

*Policy Revision 2 (September 2002)*

**Case ID No.** 39785

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101517852

**Media [Statute]** Industrial and Hazardous Waste

**Enf. Coordinator** Clinton Sims

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	2	4%
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)** 24%

>> **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 one prior order containing a denial of liability and two notice of violations without same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 24%

**Screening Date** 26-May-2010  
**Respondent** Intergulf Corporation  
**Case ID No.** 39785  
**Reg. Ent. Reference No.** RN101517852  
**Media [Statute]** Industrial and Hazardous Waste  
**Enf. Coordinator** Clinton Sims

**Docket No.** 2010-0888-IHW-E

**PCW**

*Policy Revision 2 (September 2002)*

*PCW Revision October 30, 2008*

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 335.2(a) and Industrial Solid Waste Permit No. 39068, Provision No. IV-B-1

**Violation Description** Respondent received and suffered the disposal of a load of industrial hazardous waste, however, management of hazardous waste was not allowed under Respondent's permit.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actua	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="25%"/>
	Potentia	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

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

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended from the March 3, 2010 investigation date to the May 26, 2010 screening date.

**Good Faith Efforts to Comply**

Reduction

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

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

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

# Economic Benefit Worksheet

**Respondent** Intergulf Corporation  
**Case ID No.** 39785  
**Req. Ent. Reference No.** RN101517852  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$5,000	3-Mar-2010	6-Feb-2011	0.93	\$233	n/a	\$233
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 develop and implement procedures to ensure that hazardous waste is not received at the Facility. The Date Required is the investigation date and the Final Date is the expected compliance date.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$233

Screening Date 26-May-2010

Docket No. 2010-0888-IHW-E

PCW

Respondent Intergulf Corporation

Policy Revision 2 (September 2002)

Case ID No. 39785

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101517852

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.12(a)(2), 40 Code of Federal Regulations ("CFR") § 265.72(f)(6) and Industrial Solid Waste Permit No. 39068, Provision No. II-C-1-h

Violation Description Failed to ensure waste manifests are properly completed. Specifically, manifests for ten shipments of partially-rejected hazardous waste residue accepted by Respondent were incomplete.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> 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 the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 10

13 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50,000

Ten single events are recommended (one per shipment).

Good Faith Efforts to Comply

25.0% Reduction

\$12,500

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

Notes

The Respondent came into compliance on March 16, 2010, prior to the May 21, 2010, NOE.

Violation Subtotal \$37,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$49,500

This violation Final Assessed Penalty (adjusted for limits) \$49,500

# Economic Benefit Worksheet

**Respondent** Intergulf Corporation  
**Case ID No.** 39785  
**Req. Ent. Reference No.** RN101517852  
**Media** Industrial and Hazardous Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	3-Mar-2010	16-Mar-2010	0.04	\$1	n/a	\$1
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 update the operating procedure to ensure that all wastes are received with a manifest. The Date Required is the investigation date and the Final Date is the date the updated operating procedure was submitted.

## Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$500

**TOTAL**

\$1

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602528176 Intergulf Corporation Classification: AVERAGE Rating: 8.36  
Regulated Entity: RN101517852 INTERGULF Classification: AVERAGE Site Rating: 13.71  
ID Number(s):  
SLUDGE REGISTRATION 24038  
AIR NEW SOURCE PERMITS REGISTRATION 40802  
AIR NEW SOURCE PERMITS REGISTRATION 45701  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HX2294K  
AIR NEW SOURCE PERMITS REGISTRATION 74974  
AIR NEW SOURCE PERMITS AFS NUM 4820101598  
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000031286  
GENERATION  
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 39068  
GENERATION (SWR)  
STORMWATER PERMIT TXR05Q616  
MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 43017  
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 39068  
STORAGE  
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 39068  
STORAGE  
USED OIL REGISTRATION A85860  
MUNICIPAL SOLID WASTE DISPOSAL PERMIT 43017  
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HX2294K  
Location: 10020 BAYPORT BLVD, PASADENA, TX, 77507  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: May 25, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: May 25, 2005 to May 25, 2010

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

Name: Clinton Sims Phone: (512) 239 - 6933

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

## Components (Multimedia) for the Site:

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

**Effective Date: 02/05/2007**

**ADMINORDER 2006-0953-IHW-E**

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter D 305.64(g)

Description: Failure to secure acceptable FA within 6 mos. of the change of ownership or operational control of facility.

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter C 37.201(f)

Description: Failure to make a trust deposit to a pay in trust account

- 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 06/27/2006 (457918)
- 2 06/27/2006 (484441)
- 3 08/17/2006 (484410)
- 4 08/17/2006 (509353)
- 5 02/01/2007 (536802)
- 6 05/21/2010 (791912)

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

**Date: 12/08/2005 (457918)**

**CN602528176**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter D 305.64(g)

Description: Respondent has failed to secure acceptable financial assurance within six months of the date of the change of ownership or operational control of the facility pursuant to Title 30, Texas Administrative Code, §305.64 (g).

**Date: 06/27/2006 (484410)**

**CN602528176**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter C 37.201(f)

Description: Failure to make timely trust payment to pay in trust account.

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  
INTERGULF CORPORATION;  
RN101517852**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2010-0888-IHW-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Intergulf Corporation ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Harless R. Benthul, Attorney, appear before the Commission and together stipulate that:

1. Respondent owns and operated a treatment, storage and disposal facility located at 10020 Bayport Boulevard in Pasadena, Harris County, Texas (the "Facility"). The Facility involves the management and/or the disposal of industrial hazardous waste ("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of fifty-two thousand six hundred dollars (\$52,600.00) is assessed by the Commission in settlement of the violations alleged in Section II. Pursuant to TEX. WATER CODE § 7.067, twenty-six thousand three hundred dollars (\$26,300.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the SEP Agreement and any payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

Respondent paid twenty-six thousand three hundred dollars (\$26,300.00) of the administrative penalty.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director recognizes that on February 9, 2011, Respondent was issued a solid waste permit renewal with major amendment which authorizes Respondent to accept certain IHW and which includes procedures for proper completion of manifests, waste screening, and acceptance criteria.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

1. During an investigation conducted on March 3, 2010, a TCEQ Houston Regional Office investigator documented that Respondent:
  - a. Received and suffered the disposal of a load of IHW, however, management of IHW was not allowed under Respondent's permit, in violation of 30 TEX. ADMIN. CODE § 335.2(a) and Industrial Solid Waste Permit No. 39068, Provision No. IV-B-1; and
  - b. Failed to ensure waste manifests were properly completed. Specifically, the manifests for ten shipments of partially-rejected IHW residue accepted by Respondent were incomplete, in violation of 30 TEX. ADMIN. CODE § 335.12(a)(2), 40 C.F.R. § 265.72(f)(6) and Industrial Solid Waste Permit No. 39068, Provision No. II-C-1-h.

2. Respondent received notice of the violations on or about May 26, 2010.

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

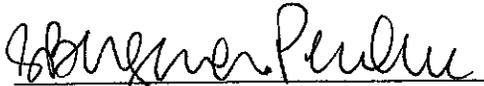
1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall implement and complete a SEP as set forth in Section I, Paragraph 5, above. The amount of twenty-six thousand three hundred dollars (\$26,300.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission



For the Executive Director

7/11/2011

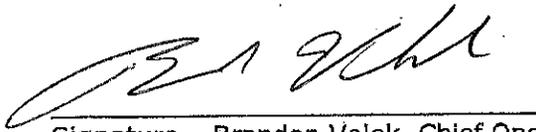
Date

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

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

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

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



Signature - Brandon Velek, Chief Operating Officer  
Intergulf Corporation

5/25/2011

Date

**Attachment A**

**Docket Number: 2010-0888-IHW-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Table A: Case Information**

<b>Respondent:</b>	Intergulf Corporation
<b>Penalty Amount:</b>	Fifty-Two Thousand Six Hundred Dollars (\$52,600)

**Table B: Project One--Galveston Bay Foundation**

<b>Project One Type of SEP:</b>	Pre-approved
<b>Project One Third-Party Recipient:</b>	Galveston Bay Foundation
<b>Project One Name:</b>	The Galveston Bay Restoration 'Marsh Mania'
<b>Project One SEP Offset Amount:</b>	Thirteen Thousand One Hundred Fifty Dollars (\$13,150)
<b>Project One Location of SEP:</b>	Chambers, Galveston, and Harris Counties

**Table C: Project Two--Armand Bayou Nature Center**

<b>Project Two Type of SEP:</b>	Pre-approved
<b>Project Two Third-Party Recipient:</b>	Armand Bayou Nature Center
<b>Project Two Name:</b>	Armand Bayou Nature Center Coastal Tall Grass Prairie Management Prescribed Burn Program and Prairie Restoration Project
<b>Project Two SEP Offset Amount:</b>	Thirteen Thousand One Hundred Fifty Dollars (\$13,150)
<b>Project Two Location of SEP:</b>	San Jacinto River Basin; including Fort Bend, Grimes, Harris, Liberty, Montgomery, San Jacinto, Walker, and Waller Counties

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

**1. Project Description**

A. Project Information

Project One—The Galveston Bay Restoration 'Marsh Mania'

Respondent shall contribute the SEP Offset Amount to the Project One Third-Party Recipient named above in Table B. The contribution will be to **The Galveston Bay Foundation** for

*The Galveston Bay Restoration 'Marsh Mania.'* The contribution will be used in accordance with the Supplemental Environmental Project between the Project One Third-Party Recipient and the TCEQ (the "Project One"). Specifically, the SEP Offset Amount will be used to restore shoreline elevations, grow plants for shoreline restoration, and plant new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The higher elevation can then be planted with emergent vegetation. The SEP Offset Amount will be used to pay for the direct cost of the implementation of the project, including material, equipment and labor costs.

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

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

Project Two—Armand Bayou Nature Center Coastal Tall Grass Prairie Management Prescribed Burn Program and Prairie Restoration Project

Respondent shall contribute the SEP Offset Amount to the Project Two Third-Party Recipient named above in Table C. The contribution will be to **Armand Bayou Nature Center** for *Armand Bayou Nature Center Coastal Tall Grass Prairie Management Prescribed Burn Program and Prairie Restoration Project*. The contribution will be used in accordance with the Supplemental Environmental Project between the Project Two Third-Party Recipient and the TCEQ (the "Project Two"). Specifically, the SEP Offset Amount will be used to protect remnants of this region's original ecosystems including wetlands, bottomland forest, and tall-grass prairies. This environmentally significant area has been designated as one of only four Texas State Coastal Preserves and is home to more than 370 species of birds, mammals, reptiles, and amphibians. Additionally, Project Two lies along the largest migratory bird route in North America and it is a crucial stop over for migrating birds.

Description of Project Two: The tall-grass prairie was once a common ecosystem in Texas and the United States. Today more than 99% of this habitat has been lost and the remainder is highly fragmented. The Project Two Third-Party Recipient manages 650 acres of tall grass prairie wetland. Two hundred-fifty acres are in need of restoration. Prescribed burning is one stewardship tool used to maintain a tall grass prairie ecosystem. If the prairie is not maintained, it can be destroyed by invasive species which primarily include the Chinese Tallow tree and other woody plants. Historically, prairies were managed by grazing, natural fires set by lightning, or fires set by Native Americans to aid in their hunter-gatherer lifestyle. The Project Two Third-Party Recipient must employ prescribed burning methods and can not use more natural stewardship tools due to its location in the center of a highly urbanized and industrialized area. The Project Two Third-Party Recipient's Stewardship Coordinator, who directs the Prescribed Burning program, has been certified by the Texas Parks and Wildlife Department to conduct prescribed burns. The SEP Offset Amount will be used to pay for the labor and materials costs associated with conducting prescribed burns, mowing, removing non-native trees, and for planting native trees and plants.

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

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

Project One: The Galveston Bay Restoration 'Marsh Mania'

Project One will provide a discernible environmental benefit by providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

Project Two: Armand Bayou Nature Center Coastal Tall Grass Prairie Management Prescribed Burn Program and Prairie Restoration Project

Project Two's area is largely wet prairie. These prairie wetland complexes play a critical role in nature. They provide numerous ecosystem services including storm water detention and purification and wildlife habitat. The focus of the restoration effort has been to control non-native invasive plants and restore the native plant community. This effort will result in increased ecosystem functionality. The Project Two Third-Party Recipient actively manages over 650 acres of this valuable wet prairie habitat. The role of fire in grassland systems is critical. Grasslands are considered by most experts to be a fire dependent plant community. Fire contributes to the overall prairie health by suppressing invasive brush species, increasing soil fertility and promoting prairie plant vigor. The Project Two Third-Party Recipient will quantify benefits by reporting the amount of unwanted species removed.

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Offset Amounts to the Project One Third-Party Recipient and the Project Two Third-Party Recipient (collectively referred to as "Third-Party Recipients") and comply with all other provisions of this SEP.

**2. Performance Schedule**

Project One: The Galveston Bay Restoration 'Marsh Mania'

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

Galveston Bay Foundation  
Attention: Bob Stokes, President, General Council  
17234-A Highway 3  
Webster, Texas 77598

Project Two: Armand Bayou Nature Center Coastal Tall Grass Prairie Management Prescribed Burn Program and Prairie Restoration Project

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

Armand Bayou Nature Center  
Mark Kramer, Stewardship Coordinator  
PO Box 58828  
Houston, Texas 77258

### 3. Records and Reporting

Concurrent with the payments of the SEP Offset Amounts, Respondent shall provide the Litigation Division SEP Coordinator with a copy of the checks and transmittal letters indicating full payment of the SEP Offset Amounts due to the Third-Party Recipients. Respondent shall mail a copy of the checks and transmittal letters to:

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

### 4. Failure to Fully Perform

If 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 Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete Project One and/or Project Two, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

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

### 5. Publicity

Any public statements concerning this SEP made by or on behalf of 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**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.