

Executive Summary – Enforcement Matter – Case No. 39912
SLC Construction, LLC
RN105600837 and RN105717524
Docket No. 2010-1019-MLM-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

MLM – Air Quality, Industrial Hazardous Waste, Municipal Hazardous Waste, Used Oil, and Water Quality

Small Business:

No

Location(s) Where Violation(s) Occurred:

1165 Rodeo Drive, Aransas Pass, Aransas County (the "Aransas Pass Site"); Intersection of Interstate Highway 37 and North Port Avenue, Corpus Christi, Nueces County, (the "North Port Site")

Type of Operation:

construction and sand mining operations

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: December 30, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$35,600

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$35,600

Compliance History Classifications:

Person/CN – Average

Site/RN – High (Aransas Pass); Average by Default (North Port)

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**SLC Construction, LLC
RN105600837 and RN105717524
Docket No. 2010-1019-MLM-E**

Investigation Information

Complaint Date(s): March 2, 2010
Complaint Information: The complaint alleged that Respondent was pumping contaminated water into the groundwater and using asphalt to fill a large hole.

Date(s) of Investigation: March 10, 2010 through April 23, 2010

Date(s) of NOV(s): N/A

Date(s) of NOE(s): June 9, 2010

Violation Information

1. Failed to obtain proper authorization prior to conducting rock crushing operations at the Aransas Pass Site [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a)].
2. Failed to obtain proper authorization prior to commencing activities involving industrial solid waste at the Aransas Pass Site [TEX. WATER CODE § 26.121 and 30 TEX. ADMIN. CODE §§ 335.2 and 335.4].
3. Failed to comply with the general prohibition requirements for outdoor burning at the Aransas Pass Site [TEX. HEALTH & SAFETY § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201].
4. Failed to label used oil containers as "Used Oil" at the Aransas Pass Site [30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c)].
5. Failed to prevent and abate releases of used oil at the Aransas Pass Site [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(d)].
6. Failed to develop and implement a storm water pollution prevention plan at the Aransas Pass Site before submitting a Notice of Intent for coverage under the Multi-Sector General Permit [30 TEX. ADMIN. CODE § 281.25(a)(4), 40 C.F.R. § 122.26(c), Multi-Sector General Permit Number TXR05Y203, Part III, Section A.1.(a), and TCEQ Agreed Order Docket No. 2008-1583-WQ-E, Ordering Provision No. 2.c.].
7. Failed to remove the crusher after exhausting the 45 non-consecutive calendar days on-site limit at the North Port Site [Tex. Health & Safety Code § 382.085(b), 30 TEX. ADMIN. CODE § 116.115(b) and 116.615(2), and Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Requirement (2)(F)].
8. Failed to comply with the record keeping and reporting requirements for the operation of a rock crusher at the North Port Site [TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.615(8), and Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Requirement (1)(M)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately:
 - a. Cease any rock crushing operations at the Aransas Pass Site until such time as authorization is obtained, and remove the Extec C12 Crusher from the Aransas Pass Site;
 - b. Cease any unauthorized outdoor burning activities at the Aransas Pass Site;

**SLC Construction, LLC
RN105600837 and RN105717524
Docket No. 2010-1019-MLM-E**

- c. Implement measures and procedures designed to ensure compliance with the record keeping requirements of operations of all rock crushers; and
 - d. Cease to cause, suffer, allow, or permit the collection, handling, storage, processing or disposal of industrial solid waste or municipal hazardous waste until such time as a permit or other authorization is obtained.
2. Within 15 days, submit written certification demonstrating compliance with Technical Requirements 1.a. through 1.d.
 3. Within 30 days:
 - a. Develop and implement a Storm Water Pollution Prevention Plan for the Aransas Pass Site;
 - b. Remove and properly clean the areas contaminated with used oil at the Aransas Pass Site and dispose of the waste at an authorized facility;
 - c. Implement measures and procedures designed to ensure that all responses to releases of used oil are performed; and
 - d. Properly label used oil containers.
 4. Within 45 days, submit written certification demonstrating compliance with Technical Requirements 3.a. through 3.d.

Litigation Information

Date Petition(s) Filed: February 11, 2011
Date(s) Green Card(s) Signed: March 1, 2011
Date(s) Answer(s) Filed: March 10, 2011
SOAH Referral Date: April 21, 2011
Hearing Date(s):
Preliminary hearing: June 9, 2011 (defaulted; remanded back to ED)
Evidentiary hearing: N/A

Contact Information

TCEQ Attorneys: Anna M. Treadwell, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: John Muennink, Air Enforcement Section, (713) 422-8970
TCEQ Regional Contact: Rosario Torres, Corpus Christi Regional Office, (361) 825-3115
Respondent: Sarah Clark, President, SLC Construction, LLC, P.O. Box 639, Conroe, Texas 77305
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 14-Jun-2010 | | | |
| | PCW | 27-Jan-2011 | Screening | 22-Jun-2010 | EPA Due |

| | | | | | |
|--|---|---------------------------|-------|--|--|
| RESPONDENT/FACILITY INFORMATION | | | | | |
| Respondent | SLC Construction, LLC (Aransas Pass Site) | | | | |
| Reg. Ent. Ref. No. | RN105600837 | | | | |
| Facility/Site Region | 14-Corpus Christi | Major/Minor Source | Minor | | |

| | | | | | |
|--------------------------------|--------------------------------|------------------------------|--------------------|----------|--|
| CASE INFORMATION | | | | | |
| Enf./Case ID No. | 39912 | No. of Violations | 3 | | |
| Docket No. | 2010-1019-MLM-E | Order Type | Findings | | |
| Media Program(s) | Air | Government/Non-Profit | No | | |
| Multi-Media | Industrial and Hazardous Waste | Enf. Coordinator | John Muennink | | |
| | | EC's Team | Enforcement Team 5 | | |
| Admin. Penalty \$ Limit | Minimum | \$0 | Maximum | \$10,000 | |

Penalty Calculation Section

| | | |
|---|-------------------|----------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$13,000 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|---------|
| Compliance History | 20.0% Enhancement | Subtotals 2, 3, & 7 | \$2,600 |
|---------------------------|-------------------|--------------------------------|---------|

| | |
|--------------|--|
| Notes | Enhancement for one 1660 Agreed Order. |
|--------------|--|

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| 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 | \$498 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$12,213 | |

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$15,600 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$3 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|--------------|--|
| Notes | Enhancement for the recovery of the avoided costs associated to Violation No. 3. |
|--------------|--|

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$15,603 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$13,600 |
|-----------------------------------|-------------------------------|----------|

| | | | | |
|-----------------|------|-----------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|-------------------|-----|

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

| | |
|--------------|---|
| Notes | No deferral is recommended for Findings Orders. |
|--------------|---|

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$13,600 |
|------------------------|----------|

Screening Date 22-Jun-2010

Docket No. 2010-1019-MLM-E

PCW

Respondent SLC Construction, LLC (Aransas Pass Site)

Policy Revision 2 (September 2002)

Case ID No. 39912

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105600837

Media [Statute] Air

Enf. Coordinator John Muennink

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 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% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 20%

>> 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 1660 Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 22-Jun-2010 **Docket No.** 2010-1019-MLM-E **PCW**
Respondent SLC Construction, LLC (Aransas Pass Site) *Policy Revision 2 (September 2002)*
Case ID No. 39912 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105600837
Media [Statute] Air
Enf. Coordinator John Muennink

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)
Violation Description Failed to obtain proper authorization prior to conducting the rock crushing operations at the Aransas Pass Site. Specifically, the Respondent failed to obtain authorization prior to moving the Extec C12 Crusher to the Aransas Pass Site. On March 10, 2010, TCEQ investigators determined that the crusher appeared to be in operating condition because an excavator was working next to the crusher, a dump truck was located under the crusher's finished product conveyor and a pile of removed rebar was located next to the crusher.
Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|----------------------|----------------------|----------------------|---------------------------------|
| | | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|---------------------|--|---|----------------------|----------------------|-----------------------------------|
| | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="100%"/> |
| Matrix Notes | The Respondent failed to meet 100% of the rule requirement. Tex. Water Code § 7.052(b) requires that the penalty for operating a rock crusher without the required permit is \$10,000 per day. | | | | |
| | Adjustment <input type="text" value="\$0"/> | | | | |

Violation Events

Number of Violation Events Number of violation days
mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event
Violation Base Penalty

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="text" value="x"/> | (mark with x) |
| Notes | Good faith efforts are not considered because Tex. Water Code § 7.052(b) requires that the penalty for operating a rock crusher without the required permit is \$10,000 per day. | |
| Violation Subtotal <input type="text" value="\$10,000"/> | | |

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 SLC Construction, LLC (Aransas Pass Site)
Case ID No. 39912
Reg. Ent. Reference No. RN105600837
Media Air
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 | \$5,000 | 10-Mar-2010 | 31-Dec-2010 | 0.81 | \$203 | n/a | \$203 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated expense to obtain proper authorization prior to operating a rock crusher. The Date Required is the date of the investigation. The Final Date is the date that corrective measures are estimated to be completed.

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

\$203

Screening Date 22-Jun-2010 **Docket No.** 2010-1019-MLM-E **PCW**
Respondent SLC Construction, LLC (Aransas Pass Site) *Policy Revision 2 (September 2002)*
Case ID No. 39912 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105600837
Media [Statute] Air
Enf. Coordinator John Muennink

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|-------------------------------------|
| daily | <input type="text"/> |
| weekly | <input type="text"/> |
| monthly | <input type="text"/> |
| quarterly | <input checked="" type="checkbox"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input type="text"/> |

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SLC Construction, LLC (Aransas Pass Site)
Case ID No. 39912
Reg. Ent. Reference No. RN105600837
Media Air
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 | \$1,960 | 10-Mar-2010 | 31-Dec-2010 | 0.81 | \$79 | n/a | \$79 |
| Permit Costs | \$5,000 | 10-Mar-2010 | 31-Dec-2010 | 0.81 | \$203 | n/a | \$203 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated expense to obtain proper authorization for activities involving industrial solid waste and to clean up and remove unauthorized waste from the Site. Estimated expense to remove the unauthorized waste from the Site is based on an estimated 146 cubic yards of waste at a disposal fee of \$13.42 per yard. The Date Required is the date of the investigation. The Final Date is the date that corrective measures are estimated to be completed.

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 \$6,960

TOTAL \$282

Screening Date 22-Jun-2010 **Docket No.** 2010-1019-MLM-E **PCW**
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Case ID No. 39912 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105600837
Media [Statute] Air
Enf. Coordinator John Muennink

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

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 type="text"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input checked="" type="checkbox"/> |

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SLC Construction, LLC (Aransas Pass Site)
Case ID No. 39912
Reg. Ent. Reference No. RN105600837
Media Air
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | \$250 | 10-Mar-2010 | 31-Dec-2010 | 0.81 | \$10 | n/a | \$10 |
| 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 expense to implement measures and procedures designed to ensure compliance with requirements for outdoor burning. The Date Required is the date of the investigation. The Final Date is the date that corrective measures are estimated to be completed.

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) | \$3 | 10-Mar-2010 | 10-Mar-2010 | 0.00 | \$0 | \$3 | \$3 |

Notes for AVOIDED costs

Estimated cost avoided by not properly disposing of the waste material in the 55 gallon barrel is based on an estimated 0.183 cubic yards of waste at a disposal fee of \$13.42 per yard. The Date Required and the Final Dates are the date of the investigation.

Approx. Cost of Compliance

\$253

TOTAL

\$13



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 14-Jun-2010 | | | |
| | PCW | 16-Jun-2010 | Screening | 22-Jun-2010 | EPA Due |

| | | | | | |
|--|---|---------------------------|-------|--|--|
| RESPONDENT/FACILITY INFORMATION | | | | | |
| Respondent | SLC Construction, LLC (Aransas Pass Site) | | | | |
| Reg. Ent. Ref. No. | RN105600837 | | | | |
| Facility/Site Region | 14-Corpus Christi | Major/Minor Source | Minor | | |

| | | | | | |
|--------------------------------|-----------------|------------------------------|--------------------|---------|--|
| CASE INFORMATION | | | | | |
| Enf./Case ID No. | 39912 | No. of Violations | 2 | | |
| Docket No. | 2010-1019-MLM-E | Order Type | Findings | | |
| Media Program(s) | Used Oil | Government/Non-Profit | No | | |
| Multi-Media | | Enf. Coordinator | John Muennink | | |
| | | EC's Team | Enforcement Team 5 | | |
| Admin. Penalty \$ Limit | Minimum | \$0 | Maximum | \$2,500 | |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$3,500 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|-------|
| Compliance History | 20.0% Enhancement | Subtotals 2, 3, & 7 | \$700 |
|---------------------------|-------------------|--------------------------------|-------|

| | |
|--------------|--|
| Notes | Enhancement for one 1660 Agreed Order. |
|--------------|--|

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| 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 | \$130 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$3,200 | |

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$4,200 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|--------------|--|
| Notes | |
|--------------|--|

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$4,200 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$4,200 |
|-----------------------------------|-------------------------------|---------|

| | | | | |
|-----------------|------|-----------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|-------------------|-----|

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

| | |
|--------------|---|
| Notes | No deferral is recommended for Findings Orders. |
|--------------|---|

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$4,200 |
|------------------------|---------|

Screening Date 22-Jun-2010

Docket No. 2010-1019-MLM-E

PCW

Respondent SLC Construction, LLC (Aransas Pass Site)

Policy Revision 2 (September 2002)

Case ID No. 39912

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105600837

Media [Statute] Used Oil

Enf. Coordinator John Muennink

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 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% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 20%

>> 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 1660 Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

| | | | | |
|--|--|--|---------------------------------------|----------------------|
| Screening Date 22-Jun-2010 | Docket No. 2010-1019-MLM-E | PCW | | |
| Respondent SLC Construction, LLC (Aransas Pass Site) | <i>Policy Revision 2 (September 2002)</i> | | | |
| Case ID No. 39912 | <i>PCW Revision October 30, 2008</i> | | | |
| Reg. Ent. Reference No. RN105600837 | | | | |
| Media [Statute] Used Oil | | | | |
| Enf. Coordinator John Muennink | | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 324.6 and 40 CFR § 279.22(c) | | | |
| Violation Description | Failed to label used oil containers as "Used Oil" at the Aransas Pass Site. Specifically, the Respondent failed to label one 500 gallon used oil tank and eleven 5 gallon buckets, containing used oil, as "Used Oil". | | | |
| Base Penalty | | \$2,500 | | |
| >> Environmental, Property and Human Health Matrix | | | | |
| OR | Harm | | | |
| | Release | Major | Moderate | Minor |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | | Percent | 0% | |
| >> Programmatic Matrix | | | | |
| | Falsification | Major | Moderate | Minor |
| | <input type="text"/> | x | <input type="text"/> | <input type="text"/> |
| | | Percent | 10% | |
| Matrix Notes | The Respondent failed to meet 100% of the rule requirement. | | | |
| | | Adjustment | \$2,250 | |
| | | \$250 | | |
| Violation Events | | | | |
| | Number of Violation Events | 12 | 104 | |
| | | Number of violation days | | |
| <i>mark only one with an x</i> | daily | <input type="text"/> | Violation Base Penalty \$3,000 | |
| | weekly | <input type="text"/> | | |
| | monthly | <input type="text"/> | | |
| | quarterly | <input type="text"/> | | |
| | semiannual | <input type="text"/> | | |
| | annual | <input type="text"/> | | |
| | single event | x | | |
| Twelve single events are recommended for the twelve used oil containers that were not labeled. | | | | |
| Good Faith Efforts to Comply | | 0.0% Reduction | \$0 | |
| | | Before NOV | NOV to EDPRP/Settlement | |
| Extraordinary | <input type="text"/> | <input type="text"/> | | |
| Ordinary | <input type="text"/> | <input type="text"/> | | |
| N/A | x | (mark with x) | | |
| Notes | The Respondent does not meet the good faith criteria for this violation. | | | |
| | | Violation Subtotal | \$3,000 | |
| Economic Benefit (EB) for this violation | | Statutory Limit Test | | |
| Estimated EB Amount | \$8 | Violation Final Penalty Total | \$3,600 | |
| | | This violation Final Assessed Penalty (adjusted for limits) | \$3,600 | |

Economic Benefit Worksheet

Respondent SLC Construction, LLC (Aransas Pass Site)
Case ID No. 39912
Reg. Ent. Reference No. RN105600837
Media Used Oil
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$200 | 10-Mar-2010 | 31-Dec-2010 | 0.81 | \$8 | n/a | \$8 |

Notes for DELAYED costs

Estimated expense to properly label used oil containers. The Date Required is the date of the investigation. The Final Date is the date that corrective measures are estimated to be completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$8

Screening Date 22-Jun-2010 **Docket No.** 2010-1019-MLM-E **PCW**
Respondent SLC Construction, LLC (Aransas Pass Site) *Policy Revision 2 (September 2002)*
Case ID No. 39912 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105600837
Media [Statute] Used Oil
Enf. Coordinator John Muennink

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 324.6, 40 CFR § 279.22(d) and Tex. Water Code § 26.121
Violation Description Failed to prevent and abate releases of used oil at the Aransas Pass Site. Specifically, the Respondent failed to stop, contain and clean up used oil spilled on the soil from one 55 gallon drum and one 500 gallon used oil tank. Additionally, TCEQ investigators observed multiple used oil spills on the soil near the mechanic shop.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------|
| | | | | | 0% |

Matrix Notes Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 2 104 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$500

Two quarterly events are recommended based on the investigation date of March 10, 2010 to the screening date of June 22, 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 \$500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$122 **Violation Final Penalty Total** \$600

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

Economic Benefit Worksheet

Respondent SLC Construction, LLC (Aransas Pass Site)
Case ID No. 39912
Reg. Ent. Reference No. RN105600837
Media Used Oil
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | \$2,000 | 10-Mar-2010 | 31-Dec-2010 | 0.81 | \$81 | n/a | \$81 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,000 | 10-Mar-2010 | 31-Dec-2010 | 0.81 | \$41 | n/a | \$41 |

Notes for DELAYED costs

Estimated expense to clean up the spilled oil and for additional maintenance on storage containers in order to prevent future spills. The Date Required is the date of the investigation. The Final Date is the date that corrective measures are estimated to be completed.

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

\$3,000

TOTAL

\$122



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 14-Jun-2010 | | | |
| | PCW | 16-Jun-2010 | Screening | 22-Jun-2010 | EPA Due |

| | | | | | |
|--|---|---------------------------|-------|--|--|
| RESPONDENT/FACILITY INFORMATION | | | | | |
| Respondent | SLC Construction, LLC (Aransas Pass Site) | | | | |
| Reg. Ent. Ref. No. | RN105600837 | | | | |
| Facility/Site Region | 14-Corpus Christi | Major/Minor Source | Minor | | |

| | | | | | |
|--------------------------------|-----------------|------------------------------|--------------------|----------|--|
| CASE INFORMATION | | | | | |
| Enf./Case ID No. | 39912 | No. of Violations | 1 | | |
| Docket No. | 2010-1019-MLM-E | Order Type | Findings | | |
| Media Program(s) | Water Quality | Government/Non-Profit | No | | |
| Multi-Media | | Enf. Coordinator | John Muennink | | |
| | | EC's Team | Enforcement Team 5 | | |
| Admin. Penalty \$ Limit | Minimum | \$0 | Maximum | \$10,000 | |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$9,000 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|---------|
| Compliance History | 20.0% Enhancement | Subtotals 2, 3, & 7 | \$1,800 |
|---------------------------|-------------------|--------------------------------|---------|

| | |
|--------------|--|
| Notes | Enhancement for one 1660 Agreed Order. |
|--------------|--|

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| 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 | \$174 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$2,000 | |

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$10,800 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|-------------------|--|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | |
|---|------|-------------------|--|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|--------------|--|
| Notes | |
|--------------|--|

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$10,800 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$10,800 |
|-----------------------------------|-------------------------------|----------|

| | | | | |
|-----------------|------|-----------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|-------------------|-----|

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

| | |
|--------------|---|
| Notes | No deferral is recommended for Findings Orders. |
|--------------|---|

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$10,800 |
|------------------------|----------|

Screening Date 22-Jun-2010

Docket No. 2010-1019-MLM-E

PCW

Respondent SLC Construction, LLC (Aransas Pass Site)

Policy Revision 2 (September 2002)

Case ID No. 39912

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105600837

Media [Statute] Water Quality

Enf. Coordinator John Muennink

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 (number of NOVs meeting criteria) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 20%

>> 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 1660 Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

| | | | | |
|--------------------------------|---|---------------------|-----------------|---|
| Screening Date | 22-Jun-2010 | Docket No. | 2010-1019-MLM-E | PCW |
| Respondent | SLC Construction, LLC (Aransas Pass Site) | | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. | 39912 | | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. | RN105600837 | | | |
| Media [Statute] | Water Quality | | | |
| Enf. Coordinator | John Muennink | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 281.25(a)(4), 40 Code of Federal Regulations ("CFR") § 122.26(c), Multi-Sector General Permit No. TXR05Y203, Part III, Section A.1.(a) and Commission Order Docket No. 2008-1583-WQ-E, Ordering Provision No. 2.c. | | | |
| Violation Description | Failed to develop and implement a storm water pollution prevention plan at the Aransas Pass Site before submitting a Notice of Intent for coverage under the Multi-Sector General Permit. This violation also results in the failure to comply with a Commission Order. | | | |
| | | Base Penalty | \$10,000 | |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|------------------|----------------|-------------|----------|-------|-------------------|
| OR | | Harm | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | | | | Percent 0% |
| Potential | | | | | |

>> Programmatic Matrix

| | | | | | |
|--|---------------|-------|----------|-------|--------------------|
| | Falsification | Major | Moderate | Minor | |
| | | x | | | Percent 10% |

Matrix Notes
The Respondent failed to meet 100% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty \$9,000

Nine monthly events are recommended based on the date that 2008-1583-WQ-E became effective on October 4, 2009 to the screening date of June 22, 2010.

Good Faith Efforts to Comply Reduction

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

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

Violation Subtotal \$9,000

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

Estimated EB Amount \$174 **Violation Final Penalty Total** \$10,800

This violation Final Assessed Penalty (adjusted for limits) \$10,800

Economic Benefit Worksheet

Respondent SLC Construction, LLC (Aransas Pass Site)
Case ID No. 39912
Reg. Ent. Reference No. RN105600837
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 | \$2,000 | 4-Oct-2009 | 31-Dec-2010 | 1.24 | \$8 | \$165 | \$174 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs Estimated expense to develop and implement a storm water pollution prevention plan. The Date Required is the effective date of Agreed Order Docket No. 2008-1583-WQ-E. The Final Date is the date that corrective measures are estimated to be completed.

Avoided Costs

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

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

Notes for AVOIDED costs

| | | | |
|-----------------------------------|---------|--------------|-------|
| Approx. Cost of Compliance | \$2,000 | TOTAL | \$174 |
|-----------------------------------|---------|--------------|-------|



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 14-Jun-2010 | | | |
| | PCW | 16-Jun-2010 | Screening | 22-Jun-2010 | EPA Due |

| | | | | | |
|--|---|---------------------------|-------|--|--|
| RESPONDENT/FACILITY INFORMATION | | | | | |
| Respondent | SLC Construction, LLC (North Port Site) | | | | |
| Reg. Ent. Ref. No. | RN105717524 | | | | |
| Facility/Site Region | 14-Corpus Christi | Major/Minor Source | Minor | | |

| | | | | | |
|--------------------------------|--------------------------------|------------------------------|--------------------|----------|--|
| CASE INFORMATION | | | | | |
| Enf./Case ID No. | 39912 | No. of Violations | 2 | | |
| Docket No. | 2010-1019-MLM-E | Order Type | Findings | | |
| Media Program(s) | Air | Government/Non-Profit | No | | |
| Multi-Media | Industrial and Hazardous Waste | Enf. Coordinator | John Muennink | | |
| | | EC's Team | Enforcement Team 5 | | |
| Admin. Penalty \$ Limit | Minimum | \$0 | Maximum | \$10,000 | |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$2,000 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|------------------|--------------------------------|-----|
| Compliance History | 0.0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|------------------|--------------------------------|-----|

| | |
|--------------|---------------------------------------|
| Notes | No adjustment for compliance history. |
|--------------|---------------------------------------|

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| 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 | \$5,296 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$5,250 | |

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$2,000 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|--------|-------------------|---------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 250.0% | Adjustment | \$5,000 |
|---|--------|-------------------|---------|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|--------------|--|
| Notes | Enhancement for the recovery of the avoided costs associated to Violation No. 1. |
|--------------|--|

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$7,000 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$7,000 |
|-----------------------------------|-------------------------------|---------|

| | | | | |
|-----------------|------|-----------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|-------------------|-----|

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

| | |
|--------------|---|
| Notes | No deferral is recommended for Findings Orders. |
|--------------|---|

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$7,000 |
|------------------------|---------|

Screening Date 22-Jun-2010

Docket No. 2010-1019-MLM-E

PCW

Respondent SLC Construction, LLC (North Port Site)

Policy Revision 2 (September 2002)

Case ID No. 39912

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105717524

Media [Statute] Air

Enf. Coordinator John Muennink

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

| | | | | |
|--------------------------------|--|-------------------|-----------------|---|
| Screening Date | 22-Jun-2010 | Docket No. | 2010-1019-MLM-E | PCW |
| Respondent | SLC Construction, LLC (North Port Site) | | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. | 39912 | | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. | RN105717524 | | | |
| Media [Statute] | Air | | | |
| Enf. Coordinator | John Muennink | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code §§ 116.115(b) and 116.615(2), Tex. Health & Safety Code § 382.085(b) and Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Requirement (2)(F) | | | |
| Violation Description | Failed to remove the crusher after exhausting the 45 non-consecutive calendar days on-site limit. Specifically, records indicate that the Respondent began operating the Extec C12 Crusher at the North Port Site on November 7, 2009. The 45 non-consecutive calendar days limit expired on December 22, 2009, and the Respondent continued to operate the crusher until March 9, 2010. | | | |
| | Base Penalty | \$10,000 | | |

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

| | | | | | |
|---------------------|--|-------|----------|-------|---------------------------|
| | Falsification | Major | Moderate | Minor | |
| | | | | | Percent 0% |
| Matrix Notes | Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors. | | | | |
| | | | | | Adjustment \$9,000 |

\$1,000

Violation Events

| | | | |
|--------------------------------|-------------------------------------|----|---------------------------------------|
| Number of Violation Events | 1 | 23 | Number of violation days |
| <i>mark only one with an x</i> | daily | | |
| | weekly | | |
| | monthly | | |
| | quarterly | x | |
| | semiannual | | |
| | annual | | |
| | single event | | |
| | One quarterly event is recommended. | | |
| | | | Violation Base Penalty \$1,000 |

Good Faith Efforts to Comply 0.0% Reduction \$0

| | | |
|---------------|--|-------------------------|
| | Before NOV | NOV to EDPRP/Settlement |
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |
| Notes | The Respondent does not meet the good faith criteria for this violation. | |
| | Violation Subtotal | \$1,000 |

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

| | | | |
|----------------------------|---------|--|---------|
| Estimated EB Amount | \$5,282 | Violation Final Penalty Total | \$3,500 |
| | | This violation Final Assessed Penalty (adjusted for limits) | \$3,500 |

Economic Benefit Worksheet

Respondent SLC Construction, LLC (North Port Site)
Case ID No. 39912
Reg. Ent. Reference No. RN105717524
Media Air
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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

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] | \$5,000 | 23-Dec-2009 | 9-Mar-2010 | 1.13 | \$282 | \$5,000 | \$5,282 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated cost avoided for not removing and continuing to operate a rock crusher. The Date Required is the date that authorization expired. The Final Date is the date that the crusher was removed from the site.

Approx. Cost of Compliance

\$5,000

TOTAL

\$5,282

Screening Date 22-Jun-2010 **Docket No.** 2010-1019-MLM-E **PCW**
Respondent SLC Construction, LLC (North Port Site) *Policy Revision 2 (September 2002)*
Case ID No. 39912 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105717524
Media [Statute] Air
Enf. Coordinator John Muennink

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 116.615(8), Tex. Health & Safety Code § 382.085(b) and Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Requirement (1)(M)
Violation Description Failed to comply with record keeping and reporting requirements for the operation of a rock crusher at the North Port Site. Specifically, the Respondent failed to provide original and complete records of rock crushing operations conducted at the North Port Site from November 7, 2009 through March 9, 2010. Records did not include the daily stop and start times, the hourly throughput of the feed hopper and the date that the crusher was placed on-site.
Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|-----------|----------------------|----------------------|----------------------|----------------------|---------------------------------|
| | | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|---|----------------------|----------------------|----------------------------------|
| | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="10%"/> |

Matrix Notes
Adjustment

Violation Events

Number of Violation Events Number of violation days
mark only one with an x

| | |
|--------------|---|
| daily | <input type="text"/> |
| weekly | <input type="text"/> |
| monthly | <input type="text"/> |
| quarterly | <input type="text"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input checked="" type="text" value="x"/> |

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes
Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**
This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent SLC Construction, LLC (North Port Site)
Case ID No. 39912
Reg. Ent. Reference No. RN105717524
Media Air
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 | \$250 | 7-Nov-2009 | 31-Dec-2010 | 1.15 | \$14 | n/a | \$14 |
| 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 expense to implement measures and procedures to ensure that required records are maintained. The Date Required is the first day of operations. The Final Date is the date that corrective measures are estimated to be completed.

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 | \$14 |
|-----------------------------------|-------|--------------|------|

Compliance History Report

Customer/Respondent/Owner-Operator: CN603461468 SLC Construction, LLC Classification: AVERAGE Rating: 2.00
 Regulated Entity: RN105600837 SLC CONSTRUCTION ARANSAS PASS AT RODEO DR Classification: HIGH Site Rating: 0.00
 ID Number(s): STORMWATER PERMIT TXR15OB30
 STORMWATER PERMIT TXR05Y203
 Location: 1165 RODEO DR, ARANSAS PASS, TX, 78336
 TCEQ Region: REGION 14 - CORPUS CHRISTI
 Date Compliance History Prepared: June 16, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: June 16, 2005 to June 16, 2010
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
 Name: jmuen Phone: (361) 825-3100

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 | SLC Construction LLC |
| OWNOPR | SLC Construction, L.P. |
4. If Yes, who was/were the prior owner(s)/operator(s)?

| | |
|-----|------------------------|
| OWN | SLC Construction LLC |
| OWN | SLC Construction, L.P. |
5. When did the change(s) in owner or operator occur?

| | | |
|------------|-----|------------------------|
| 07/01/2008 | OWN | SLC Construction, L.P. |
| 06/10/2009 | OWN | SLC Construction LLC |
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: 10/04/2009 ADMINORDER 2008-1583-WQ-E

Classification: Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)
 Description: Failure to obtain authorization to discharge storm water associated with an industrial activity.
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 Description: Failure to ensure that no person may discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state except as authorized by the commission.
- 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 08/27/2008 (700021)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A
- F. Environmental audits.

N/A
- G. Type of environmental management systems (EMSs).

N/A
- H. Voluntary on-site compliance assessment dates.

N/A
- I. Participation in a voluntary pollution reduction program.

N/A
- J. Early compliance.

N/A
- Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator: CN603461468 SLC Construction, LLC Classification: AVERAGE Rating: 2.00
Regulated Entity: RN105717524 NORTH PORT AVENUE Classification: AVERAGE BY DEFAULT Site Rating: 3.01
IH 37 TO US 181
ID Number(s): STORMWATER PERMIT TXR05Y344
Location: INTERSECTION OF INTERSTATE HWY 37 & NORTH PORT AVE
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: June 16, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 16, 2005 to June 16, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: jmuen Phone: (361) 825-3100

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 06/09/2010 (800895)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SLC CONSTRUCTION, LLC;
RN105600837 AND
RN105717524**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1019-MLM-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE chs. 361, 371, and 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is SLC Construction, LLC ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates two construction and sand mining operations located at 1165 Rodeo Drive, Aransas Pass, Aransas County, Texas (the "Aransas Pass Site") and located at the intersection of Interstate Highway 37 and North Port Avenue, in Corpus Christi, Nueces County, Texas (the "North Port Site"), (collectively referred to as the "Sites"). The Sites consist of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12). The Aransas Pass Site involve or involved the management and/or the disposal of industrial hazardous waste, municipal hazardous waste, and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371. Respondent has discharged waste from the Aransas Pass Site into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. During an investigation conducted on March 10, 2010 through April 23, 2010, a TCEQ Corpus Christi Regional Office investigators documented that Respondent:
 - a. Failed to obtain proper authorization prior to conducting the rock crushing operations at the Aransas Pass Site. Specifically, Respondent failed to obtain authorization prior to moving the Extec C12 Crusher to the Aransas Pass Site. On March 10, 2010, TCEQ investigators determined that the crusher appeared to be in operating condition because an excavator was working next to the Extec C12 Crusher, a dump truck was located under the Extec C12 Crusher's finished product conveyor, and a pile of removed rebar was located next to the Extec C12 Crusher;
 - b. Failed to obtain proper authorization prior to commencing activities involving industrial solid waste at the Aransas Pass Site. Specifically, Respondent

collected, handled, stored, processed, and disposed of industrial waste adjacent to and within water in the State. TCEQ investigators observed various waste piles that included wooden furniture, a mattress, metal, plastic, electronics, empty drums, tanks, a fire extinguisher, tires, construction debris, and other assorted waste items at the Aransas Pass Site. Rusted metal fencing, sheet metal, an empty fuel container, a crushed 55 gallon drum, a rusted 55 gallon drum of which the contents could not be determined, a tire, and broken concrete and asphalt were immersed in the ponds located at the Aransas Pass Site;

- c. Failed to comply with the general prohibition requirements for outdoor burning at the Aransas Pass Site. Specifically, TCEQ investigators observed various materials, including a rubber hose with metal attachments, cardboard, and various other metal items burning in a 55 gallon barrel;
 - d. Failed to label used oil containers as "Used Oil" as the Aransas Pass Site. Specifically, Respondent failed to label one 500 gallon used oil tank and 11 five gallon buckets containing used oil as "Used Oil" ;
 - e. Failed to prevent and abate releases of used oil at the Aransas Pass Site. Specifically, Respondent failed to stop, contain, and clean up used oil spilled on the soil from one 55 gallon drum and one 500 gallon used oil tank. Additionally, TCEQ investigators observed multiple used oil spills on the soil near the mechanic shop; and
 - f. Failed to develop and implement a storm water pollution prevention plan at the Aransas Pass Site before submitting a Notice of Intent for coverage under the Multi-Sector General Permit.
3. During an investigation conducted on March 10, 2010 through April 13, 2010, a TCEQ Corpus Christi Regional Office investigator documented that Respondent:
- a. Failed to remove the crusher after exhausting the 45 non-consecutive calendar days on-site limit. Specifically, records indicate that Respondent began operating the Extec C12 Crusher at the North Port Site on November 7, 2009. The 45 non-consecutive calendar days limit expired on December 22, 2009, and Respondent continued to operate the Extec C12 Crusher until March 9, 2010; and
 - b. Failed to comply with the record keeping and reporting requirements for the operation of a rock crusher at the North Port Site. Specifically, Respondent failed to provide original and complete records of rock crushing operations conducted at the North Port Site from November 7, 2009 through March 9, 2010. Records did not include the daily stop and start times, the hourly throughput of the feed hopper, and the date that the Extec C12 Crusher was placed on-site.
4. Respondent received notice of the Allegations in Findings of Fact Nos. 2.a through 3.b on or about June 14, 2010.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SLC Construction, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on February 11, 2011.
6. Respondent filed an answer requesting a hearing on March 10, 2011, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on April 21, 2011.
7. On May 10, 2011, the TCEQ Chief Clerk mailed notice of the June 9, 2011, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
8. On June 9, 2011, the Administrative Law Judge ("ALJ") convened the preliminary hearing, but Respondent failed to appear. The ALJ entered a finding that Respondent was served with proper notice of the hearing, and the Executive Director requested that the matter be remanded to the Executive Director so that a Default Order may be entered and the case may be dismissed from the SOAH Docket.
9. The ALJ remanded the matter to the Executive Director by SOAH Order No. 1, Dismissing and Remanding, issued on June 9, 2011, so that TCEQ may dispose of this case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE chs. 361, 371, and 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a, Respondent failed to obtain proper authorization prior to conducting the rock crushing operations at the Aransas Pass Site, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a).
3. As evidenced by Finding of Fact No. 2.b, Respondent failed to obtain proper authorization prior to commencing activities involving industrial solid waste at the Aransas Pass Site, in violation of TEX. WATER CODE § 26.121 and 30 TEX. ADMIN. CODE §§ 335.2 and 335.4.
4. As evidenced by Finding of Fact No. 2.c, Respondent failed to comply with the general prohibition requirements for outdoor burning at the Aransas Pass Site, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201.
5. As evidenced by Finding of Fact No. 2.d, Respondent failed to label used oil containers as "Used Oil" as the Aransas Pass Site, in violation of 30 TEX. ADMIN. CODE § 324.6, and 40 C.F.R. § 279.22(c).

6. As evidenced by Finding of Fact No. 2.e, Respondent failed to prevent and abate releases of used oil at the Aransas Pass Site, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(d).
7. As evidenced by Finding of Fact No. 2.f, Respondent failed to develop and implement a storm water pollution prevention plan at the Aransas Pass Site before submitting a Notice of Intent for coverage under the Multi-Sector General Permit, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), 40 C.F.R. § 122.26(c), Multi-Sector General Permit No. TXR05Y203, Part III, Section A.1.(a), and Commission Order Docket No. 2008-1583-WQ-E, Ordering Provision No. 2.c..
8. As evidenced by Finding of Fact No. 3.a, Respondent failed to remove the crusher after exhausting the 45 non-consecutive calendar days on-site limit at the North Port Site, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE §§ 116.115(b) and 116.615(2), and Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Requirement (2)(F).
9. As evidenced by Finding of Fact No. 3.b, Respondent failed to comply with the record keeping and reporting requirements for the operation of a rock crusher at the North Port Site, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), 30 TEX. ADMIN. CODE § 116.615(8), and Air Quality Standard Permit for Temporary Rock and Concrete Crushers, General Requirement (1)(M).
10. As evidenced by Finding of Fact No. 6, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
11. As evidenced by Finding of Fact No. 7, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
12. As evidenced by Findings of Fact Nos. 8 and 9, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. WATER CODE § 7.057, and 1 TEX. ADMIN. CODE § 155.501, the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).
13. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
14. An administrative penalty in the amount of thirty-five thousand six hundred dollars (\$35,600.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

15. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of thirty-five thousand six hundred dollars (\$35,600.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: SLC Construction, LLC; Docket No. 2010-1019-MLM-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondent shall:
 - i. Cease any rock crushing operations at the Aransas Pass Site until such time as authorization is obtained and remove the Extec C12 Crusher from the Aransas Pass Site (Conclusion of Law No. 2);
 - ii. Cease any unauthorized outdoor burning activities at the Aransas Pass Site, in accordance with 30 TEX. ADMIN CODE § 111.201 (Conclusion of Law No. 4);
 - iii. Implement measures and procedures designed to ensure compliance with the record keeping requirements of operations of all rock crushers (Conclusion of Law No. 9); and
 - iv. Cease to cause, suffer, allow, or permit the collection, handling, storage, processing or disposal of industrial solid waste or municipal hazardous waste in violation of 30 TEX. ADMIN CODE § 335.4 (relating to General Prohibitions) until such time as a permit or other authorization is obtained, in accordance with 30 TEX. ADMIN CODE § 335.2 (Conclusion of Law No. 3).

- b. Within 15 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 3.e, below, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iv.
- c. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Develop and implement a Storm Water Pollution Prevention Plan for the Aransas Pass Site, in accordance with 30 TEX. ADMIN CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c) (Conclusion of Law No. 7);
 - ii. Remove and properly clean the areas contaminated with used oil at the Aransas Pass Site and dispose of the waste at an authorized facility (Conclusion of Law No. 6);
 - iii. Implement measures and procedures designed to ensure that all responses to releases of used oil are performed in accordance with 40 C.F.R § 279.22(d) (Conclusion of Law No. 6); and
 - iv. Properly label used oil containers, in accordance with 40 C.F.R. § 279.22(c) (Conclusion of Law No. 5).
- d. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 3.e, below, to demonstrate compliance with Ordering Provisions Nos. 3.c.i. through 3.c.iv.
- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

David Kennebeck, Air Section Manager
Texas Commission on Environmental Quality
Corpus Christi Regional Office
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Sites operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this 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 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.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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.
8. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF ANNA M. TREADWELL

STATE OF TEXAS

§

COUNTY OF TRAVIS

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"My name is Anna M. Treadwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SLC Construction, LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 11, 2011.

Respondent filed an answer requesting a hearing on March 10, 2011, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on April 21, 2011. On May 10, 2011, the TCEQ Chief Clerk mailed notice of the June 9, 2011 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on June 9, 2011. At that hearing, I requested and received a finding that Respondent was served with proper notice of the hearing pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(2). I also requested that the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(1)(A), which gives an ALJ the authority to remand the case back to the agency "to allow the agency to dispose of the case on a default basis under TEX. GOV'T CODE § 2001.056(4) and the referring agency's rules."

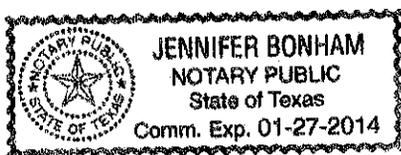
The ALJ remanded the matter to the Executive Director by SOAH Order No. 1, Dismissing and Remanding, issued on June 9, 2011, so that TCEQ may dispose of this case on a default basis."

Anna Treadwell

Anna M. Treadwell, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Anna M. Treadwell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 8th day of December, A.D. 2011.



Jennifer Bonham

Notary Signature