

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41260  
Effective Environmental, Inc.  
RN100567841  
Docket No. 2011-0348-MLM-E

**Order Type:**

Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM - IHW, MSW

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

1809 Jester Drive, Corsicana, Navarro County

**Type of Operation:**

solvent recycling facility

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$100 – Acct. No. 0306460N
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** May 25, 2012

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$16,375

**Total Paid to General Revenue:** \$8,188

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

**SEP Conditional Offset:** \$8,187

Name of SEP: Water or Wastewater Treatment Assistance, Navarro County

**Compliance History Classifications:**

Person/CN – Average

Site/RN – Average by Default

**Major Source:** Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** September 9, 2010

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

**Date(s) of NOE(s):** February 14, 2011

**Effective Environmental, Inc.**

RN100567841

Docket No. 2011-0348-MLM-E

**Violation Information**

1. Failed to obtain authorization prior to allowing or permitting any activity of storage of any municipal solid waste (“MSW”) (approx. 10 cu/yds of chipped wood mixed with water treatment sludge) [30 TEX. ADMIN. CODE § 330.9(a)].
2. Failed to clearly mark accumulation start dates on each waste container [30 TEX. ADMIN. CODE § 335.69(a)(2) and 40 C.F.R. § 262.34(a)(2)].
3. Failed to maintain a compliant copy of the contingency plan and emergency procedures at the Facility and make it available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 335.69(a)(4)(A) and 40 C.F.R. §§ 265.52 and 265.53].
4. Failed to update the Facility’s Notice of Registration (“NOR”) [30 TEX. ADMIN. CODE § 335.6(c)].
5. Failed to obtain authorization for storm water discharges associated with industrial activity [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(a)(1)(ii)].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

1. Removed and disposed of the MSW at the Facility as of October 20, 2010;
2. Clearly marked accumulation start dates on the waste containers as of September 9, 2010;
3. Updated the Facility’s NOR as of November 23, 2010; and
4. Obtained authorization for storm water discharges associated with industrial activity at the Facility as of October 20, 2010.

**Technical Requirements:**

1. Immediately begin maintaining a compliant copy of the contingency plan and emergency procedures at the Facility and make it available for inspection upon request by agency personnel.
2. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information****Date Petition(s) Filed:** August 26, 2011**Date Answer(s) Filed:** September 19, 2011**SOAH Referral Date:** November 16, 2011**Hearing Date(s):**

Preliminary hearing: January 26, 2012 (waived)

Evidentiary hearing: May 10, 2012 (scheduled)

**Settlement Date:** May 4, 2012**Contact Information****TCEQ Attorneys:** Tammy L. Mitchell, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Blas Coy, Public Interest Counsel, (512) 239-6363**TCEQ SEP Coordinator:** Sharon Blue, Litigation Division, (512) 239-2223**TCEQ Enforcement Coordinator:** Tom Greimel, Enforcement Division, (512) 239-0855**TCEQ Regional Contact:** Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5800**Respondent:** Chris Ewing, President, Effective Environmental, Inc., 2515 Beltline Road, Mesquite, Texas 75181**Respondent's Attorney:** Robert E. “Robin” Morse, III, Crain, Caton & James, P.C., 1401 McKinney, Suite 1700, Houston, Texas 77010

**Attachment A**  
**Docket Number: 2011-0348-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Effective Environmental, Inc.
<b>Penalty Amount:</b>	Sixteen Thousand Three Hundred Seventy-Five Dollars (\$16,375)
<b>SEP Offset Amount:</b>	Eight Thousand One Hundred Eighty-Seven Dollars (\$8,187)
<b>Type of SEP:</b>	Contribution to a Pre-approved Third-Party Recipient
<b>Third-Party Recipient:</b>	Texas Association of Resource Conservation & Development Areas, Inc.
<b>Project Name:</b>	<i>Water or Wastewater Treatment Assistance</i>
<b>Location of SEP:</b>	Trinity River Basin, Trinity Aquifer, preference for Navarro County

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

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Texas Association of Resource Conservation & Development Areas, Inc. (“RC&D”)** for the *Water or Wastewater Treatment Assistance* program. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the Third-Party Recipient and the TCEQ (the “Project”). The Third-Party Recipient shall coordinate with local public and private entities to provide low-income homeowners with assistance to enable repair or replacement of their failing water systems or on-site wastewater systems. Specifically, the SEP Offset Amount will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients shall not be charged for the cost of replacing or repairing the failing systems.

All dollars contributed will be used solely for the direct cost of implementing the Project. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the TCEQ Executive Director (“ED”), be applied to another pre-approved SEP. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Respondent’s signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

The SEP will help prevent the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such

as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources;
- Direct contact in areas of public access such as in lawns or street, or wathers used for recreation;
- Shellfish harvested from areas contaminated by raw sewage; or
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The drinking water portion of this project will protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

C. Minimum Expenditure

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

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D  
Attention: Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

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

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

#### **4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above, the ED may require immediate payment of all or part of the SEP Offset Amount.

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

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

#### **5. Publicity**

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

#### **6. Clean Texas Program**

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

#### **7. Other SEPs by TCEQ or Other Agencies**

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

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	22-Feb-2011	<b>Screening</b>	4-Mar-2011	<b>EPA Due</b>	
	<b>PCW</b>	21-Mar-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>						
<b>Respondent</b>	Effective Environmental, Inc.					
<b>Reg. Ent. Ref. No.</b>	RN100567841					
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Major			

<b>CASE INFORMATION</b>						
<b>Enf./Case ID No.</b>	41260	<b>No. of Violations</b>	5			
<b>Docket No.</b>	2011-0348-MLM-E	<b>Order Type</b>	1660			
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No			
<b>Multi-Media</b>	Municipal Solid Waste	<b>Enf. Coordinator</b>	Philip Aldridge			
		<b>EC's Team</b>	Enforcement Team 7			
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$20,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$3,625
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$21
Approx. Cost of Compliance	\$2,841

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$16,375
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$16,375

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$16,375
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$16,375
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**Screening Date** 4-Mar-2011

**Docket No.** 2011-0348-MLM-E

**PCW**

**Respondent** Effective Environmental, Inc.

*Policy Revision 2 (September 2002)*

**Case ID No.** 41260

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN100567841

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

**Enf. Coordinator** Philip Aldridge

### Compliance History Worksheet

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

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

**Adjustment Percentage (Subtotal 2)** 0%

**>> Repeat Violator (Subtotal 3)**

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**

No adjustment for compliance history.

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

Screening Date 4-Mar-2011

Docket No. 2011-0348-MLM-E

PCW

Respondent Effective Environmental, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41260

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100567841

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Philip Aldridge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.9(a)

Violation Description Failed to obtain authorization prior to allowing or permitting any activity of storage of any municipal solid waste ("MSW"). Specifically, approximately ten cubic yards of chipped wood mixed with water treatment sludge was stored at the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%
100% of the rule requirement was not met.					

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 41 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the September 9, 2010 investigation date to the October 20, 2010 date of compliance.

Good Faith Efforts to Comply

	25.0%	Reduction
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

\$1,250

Notes The Respondent came into compliance on October 20, 2010 prior to the NOE dated February 14, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

## Economic Benefit Worksheet

**Respondent** Effective Environmental, Inc.  
**Case ID No.** 41260  
**Req. Ent. Reference No.** RN100567841  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$191	9-Sep-2010	20-Oct-2010	0.11	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of ten cubic yards of MSW at an authorized facility. The Date Required is the investigation date and the Final Date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$191

**TOTAL**

\$1

Screening Date 4-Mar-2011

Docket No. 2011-0348-MLM-E

PCW

Respondent Effective Environmental, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41260

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100567841

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Phillip Aldridge

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(2) and 40 CFR § 262.34(a)(2)

Violation Description Failed to clearly mark accumulation start dates on each waste container. Specifically, the labels on two still bottom containers were not annotated with accumulation start dates.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (25%).

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2, 188 Number of violation days

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$5,000

Two single events are recommended (one event for each container).

Good Faith Efforts to Comply

10.0% Reduction Before NOV, NOV to EDPRP/Settlement Offer

\$500

Table with categories: Extraordinary, Ordinary (marked with x), N/A (mark with x).

Notes The Respondent came into compliance September 9, 2010, prior to the NOE dated February 14, 2011.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

## Economic Benefit Worksheet

**Respondent** Effective Environmental, Inc.  
**Case ID No.** 41260  
**Req. Ent. Reference No.** RN100567841  
**Media** Industrial and Hazardous Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	9-Sep-2010	9-Sep-2010	0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to mark accumulation start dates on each container (\$50 per container). The Date Required is the investigation date and the Final Date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$0

Screening Date 4-Mar-2011

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PCW

Respondent Effective Environmental, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41260

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100567841

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Phillip Aldridge

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.69(a)(4)(A) and 40 CFR §§ 265.52 and 53

Violation Description Failed to maintain a compliant copy of the contingency plan and emergency procedures at the Facility and make available for inspection upon request by agency personnel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (25%).

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 188 Number of violation days

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

## Economic Benefit Worksheet

**Respondent** Effective Environmental, Inc.  
**Case ID No.** 41260  
**Req. Ent. Reference No.** RN100567841  
**Media** Industrial and Hazardous Waste  
**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	\$50	9-Sep-2010	9-Dec-2011	1.25	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain a copy of the contingency plan and emergency procedures at the Facility. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

**TOTAL**

\$3

Screening Date 4-Mar-2011

Docket No. 2011-0348-MLM-E

PCW

Respondent Effective Environmental, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41260

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100567841

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Philip Aldridge

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 335.6(c)

Violation Description Failed to update the Facility's Notice of Registration ("NOR"). Specifically, the NOR did not reflect the correct generator status, all wastes generated, and active waste management units.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%
100% of the rule requirement was not met.					

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 76 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

	25.0%	Reduction
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

\$625

Notes The Respondent came into compliance on November 23, 2010, prior to the NOE dated February 14, 2011.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

## Economic Benefit Worksheet

**Respondent** Effective Environmental, Inc.  
**Case ID No.** 41260  
**Req. Ent. Reference No.** RN100567841  
**Media** Industrial and Hazardous Waste  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	9-Sep-2010	23-Nov-2010	0.21	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to update the Facility's NOR. The Date Required is the investigation date and the Final Date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$5

Screening Date 4-Mar-2011

Docket No. 2011-0348-MLM-E

PCW

Respondent Effective Environmental, Inc.

Policy Revision 2 (September 2002)

Case ID No. 41260

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100567841

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Philip Aldridge

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 CFR § 122.26(a)(1)(ii)

Violation Description Failed to obtain authorization for storm water discharges associated with industrial activity.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 41 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two monthly events are recommended from the September 9, 2010 investigation date to the October 20, 2010 date of compliance.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$1,250

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent came into compliance on October 20, 2010, prior to the NOE dated February 14, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

## Economic Benefit Worksheet

**Respondent** Effective Environmental, Inc.  
**Case ID No.** 41260  
**Req. Ent. Reference No.** RN100567841  
**Media** Industrial and Hazardous Waste  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$2,000	9-Sep-2010	20-Oct-2010	0.11	\$11	n/a	\$11
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost associated with preparing, submitting, obtaining authorization, and developing and implementing a storm water pollution prevention plan. The Date Required is the investigation date and the Final Date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

**TOTAL**

\$11

# Compliance History

Customer/Respondent/Owner-Operator:	CN602156598	Effective Environmental, Inc.	Classification: AVERAGE	Rating: 2.50
Regulated Entity:	RN100567841	Effective Environmental Corsicana Plant	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	AIR NEW SOURCE PERMITS	REGISTRATION		92139
	STORMWATER	PERMIT		TXR05Z846
	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID		TXD097551550
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)		38777
Location:	1809 JESTER DR, CORSICANA, TX, 75109			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	March 04, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 04, 2006 to March 04, 2011			

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

Name: Philip Aldridge Phone: (512) 239-0855

## 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 Effective Environmental, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)?	OWNOPR Rail Bearing Service, Inc.
5. When did the change(s) in owner or operator occur?	06/06/2010 OWNOPR Rail Bearing Service, Inc.
6. Rating Date: 9/1/2010 Repeat Violator:	NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
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 02/14/2011 (863526)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
EFFECTIVE ENVIRONMENTAL,  
INC.;  
RN100567841**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2011-0348-MLM-E**

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

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Effective Environmental, Inc. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Robin Morse of the law firm Crain, Caton & James, P.C., together stipulate that:

1. Respondent owns and operates a solvent recycling facility located at 1809 Jester Drive in Corsicana, Navarro County, Texas (the "Facility"). The Facility involves the management and/or the disposal of industrial and hazardous waste and municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Facility is near ore adjacent to water in the state as defined in TEX WATER CODE § 26.001(5).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of sixteen thousand three hundred seventy-five dollars (\$16,375.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid eight thousand one hundred eighty-eight dollars (\$8,188.00) of the administrative penalty. Pursuant to TEX. WATER CODE § 7.067, eight thousand one hundred eighty-seven dollars (\$8,187.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative

penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

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

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
  - a. Removed and disposed of approximately 10 cubic yards of chipped wood mixed with water treatment sludge as of October 20, 2010;
  - b. Clearly marked accumulation start dates on the still bottom waste containers as of September 9, 2010;
  - c. Updated the Facility's Notice of Registration ("NOR") to reflect the correct generator status, wastes generated, and active waste management units as of November 23, 2010; and
  - d. Obtained authorization for storm water discharges associated with industrial activity at the Facility as of October 20, 2010.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

1. During an investigation conducted on September 9, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
  - a. Failed to obtain authorization prior to allowing or permitting any activity of storage of any municipal solid waste ("MSW"), in violation of 30 TEX. ADMIN. CODE § 330.9(a). Specifically, approximately 10 cubic yards of chipped wood mixed with water treatment sludge was stored at the Facility;
  - b. Failed to clearly mark accumulation start dates on each waste container, in violation of 30 TEX. ADMIN. CODE § 335.69(a)(2) and 40 C.F.R. § 262.34(a)(2). Specifically, the labels on two still bottom containers were not annotated with accumulation start dates;
  - c. Failed to maintain a compliant copy of the contingency plan and emergency procedures at the Facility and make it available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 335.69(a)(4)(A) and 40 C.F.R. §§ 265.52 and 265.53;
  - d. Failed to update the Facility's NOR, in violation of 30 TEX. ADMIN. CODE § 335.6(c). Specifically, the NOR did not reflect the correct generator status, all wastes generated, and active waste management units; and
  - e. Failed to obtain authorization for storm water discharges associated with industrial activity, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(a)(1)(ii).
2. Respondent received notice of the alleged violations on or about February 19, 2011.

## III. DENIALS

Respondent generally denies each Allegation in Section II.

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall implement and complete a SEP as set forth in Section I, Paragraph 5, above. The amount of eight thousand one hundred eighty-seven dollars (\$8,187.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.

3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Respondent shall maintain a compliant copy of the contingency plan and emergency procedures at the Facility and make it available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 335.69(a)(4)(A) and 40 C.F.R. §§ 265.52 and 265.53.
  - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification 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 certification 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:

Sam Barrett, Waste Section Manager  
Texas Commission on Environmental Quality  
Dallas/Fort Worth Regional Office  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Agreed Order is denied.
5. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and

minimize any delay.

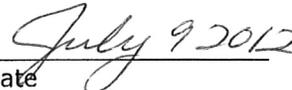
7. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive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

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

  
\_\_\_\_\_  
For the Executive Director

  
\_\_\_\_\_  
Date

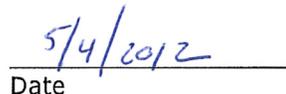
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Effective Environmental, Inc., and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment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

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

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

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

  
\_\_\_\_\_  
Signature - Chris Ewing, President and Director  
Effective Environmental, Inc.

  
\_\_\_\_\_  
Date

**Attachment A**  
**Docket Number: 2011-0348-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Effective Environmental, Inc.
<b>Penalty Amount:</b>	Sixteen Thousand Three Hundred Seventy-Five Dollars (\$16,375)
<b>SEP Offset Amount:</b>	Eight Thousand One Hundred Eighty-Seven Dollars (\$8,187)
<b>Type of SEP:</b>	Contribution to a Pre-approved Third-Party Recipient
<b>Third-Party Recipient:</b>	Texas Association of Resource Conservation & Development Areas, Inc.
<b>Project Name:</b>	<i>Water or Wastewater Treatment Assistance</i>
<b>Location of SEP:</b>	Trinity River Basin, Trinity Aquifer, preference for Navarro County

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

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Texas Association of Resource Conservation & Development Areas, Inc. (“RC&D”)** for the *Water or Wastewater Treatment Assistance* program. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the Third-Party Recipient and the TCEQ (the “Project”). The Third-Party Recipient shall coordinate with local public and private entities to provide low-income homeowners with assistance to enable repair or replacement of their failing water systems or on-site wastewater systems. Specifically, the SEP Offset Amount will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients shall not be charged for the cost of replacing or repairing the failing systems.

All dollars contributed will be used solely for the direct cost of implementing the Project. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the TCEQ Executive Director (“ED”), be applied to another pre-approved SEP. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Respondent’s signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

The SEP will help prevent the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such

as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources;
- Direct contact in areas of public access such as in lawns or street, or wathers used for recreation;
- Shellfish harvested from areas contaminated by raw sewage; or
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The drinking water portion of this project will protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

C. Minimum Expenditure

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

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D  
Attention: Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

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

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

#### **4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above, the ED may require immediate payment of all or part of the SEP Offset Amount.

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

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

#### **5. Publicity**

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

#### **6. Clean Texas Program**

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

#### **7. Other SEPs by TCEQ or Other Agencies**

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