

**Executive Summary – Enforcement Matter – Case No. 50102
ZACHRY-ODEBRECHT PARKWAY BUILDERS
RN106721632, RN107046617, and RN106776644
Docket No. 2015-0260-WQ-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Concrete Batch Plant G, located on the west side of IH-45 north of the railroad at Spring Stuebner Road, Houston, Harris County ("Facility 1")

GB Batch Plant, located in the northeast quadrant of the U.S. Highway 59 and Grand Parkway at Eagle Drive, New Caney, Montgomery County ("Facility 2")

Traylor Brothers Mesa Precast Yard, 11022 Mesa Drive, Houston, Harris County ("Facility 3")

Type of Operation:

Concrete batch plants

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 10, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,626

Amount Deferred for Expedited Settlement: \$1,725

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$3,451

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$3,450

Name of SEP: Bayou Land Conservancy (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

**Executive Summary – Enforcement Matter – Case No. 50102
ZACHRY-ODEBRECHT PARKWAY BUILDERS
RN106721632, RN107046617, and RN106776644
Docket No. 2015-0260-WQ-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 11, 2014, December 17, 2014, and February 5, 2015

Date(s) of NOE(s): January 30, 2015, February 10, 2015, and February 17, 2015

Violation Information

1. Failed to comply with permitted effluent limits (Facility 1). Specifically, the total suspended solids daily maximum concentration exceeded the permit limit of 65 milligrams per liter ("mg/L") for the months of February (231 mg/L), May (121 mg/L), June (97.6 mg/L), and September (179.5 mg/L) 2014 [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG111406 Part III. Section A.1].

2. Failed to comply with permitted effluent limits (Facility 2) for total suspended solids and pH [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXG111431 Part III. Section A.1].

3. Failed to comply with permitted effluent limits (Facility 3) for total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXG111385 Part III. Section A.1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

a. By November 30, 2014, installed additional best management practices ("BMPs") for sediment control and returned to compliance with all permitted effluent limitations of TPDES General Permit No. TXG111406 at Facility 1;

b. By December 31, 2014, installed additional BMPs for sediment control and returned to compliance with all permitted effluent limitations of TPDES General Permit No. TXG111431 at Facility 2; and

c. By January 31, 2015, installed additional BMPs for sediment control and returned to compliance with all permitted effluent limitations of TPDES General Permit No. TXG111385 at Facility 3.

**Executive Summary – Enforcement Matter – Case No. 50102
ZACHRY-ODEBRECHT PARKWAY BUILDERS
RN106721632, RN107046617, and RN106776644
Docket No. 2015-0260-WQ-E**

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Larry Butler, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2543; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: Jorge Laris, Authorized Representative, ZACHRY-ODEBRECHT PARKWAY BUILDERS, 222 Pennbright Drive, Suite 300, Houston, Texas 77090

Respondent's Attorney: N/A

Attachment A

Docket Number: 2015-0260-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	ZACHRY-ODEBRECHT PARKWAY BUILDERS
Penalty Amount:	Six Thousand Nine Hundred One Dollars (\$6,901)
SEP Offset Amount:	Three Thousand Four Hundred Fifty Dollars (\$3,450)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Bayou Land Conservancy
Project Name:	<i>Lake Houston Watershed – Western Watershed Protection Project</i>
Location of SEP:	Harris and Montgomery Counties; San Jacinto River Basin; and Gulf Coast Aquifer

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

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Bayou Land Conservancy** for the *Lake Houston Watershed – Western Watershed Protection Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”).

The Third-Party Administrator has identified approximately 600 acres along the West Fork of the San Jacinto River, Spring Creek, Cypress Creek, and Lake Creek for acquisition of perpetual conservation easements in accordance with Subchapter A, Chapter 183, Texas Natural Resources Code. The goal of this Project is to protect the floodplain within the western tributaries of the Lake Houston Watershed. Specifically, the SEP Offset Amount will be used to conduct certain due diligence activities and to purchase conservation easements from private and public landowners. The Third-Party Administrator shall also conduct restoration work as necessary on properties that were previously degraded before being placed under a conservation easement. Targeted properties are owned by Harris County, Montgomery County, and private landowners.

ZACHRY-ODEBRECHT PARKWAY BUILDERS
Agreed Order - Attachment A

After a property has been identified for conservation easement acquisition, the Third-Party Administrator shall submit a proposal to TCEQ that includes property owner information, approximate boundaries and aerial maps, preliminary flora/fauna lists and environmental details of stream frontage, wetland acreage, habitat type, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for approved due diligence activities and purchase of the conservation easement.

After TCEQ approval, the Third-Party Administrator shall prepare a baseline inventory and mapping of the property. The baseline inventory will assess the ecological health of the tract, including onsite biological inventories of all flora and fauna species. Mapping will be completed by collecting data to prepare flood, topographic, wetland, soil, and aerial field maps. This information will determine whether restoration activities will be necessary and will also ensure that the Third-Party Administrator can preserve the ecological health of the property in the future.

The Third-Party Administrator shall address and remedy all encumbrances to the property title, including mortgages and other liens, prior to closing on the conservation easement purchase. The Third-Party Administrator shall not sell conservation easements or any other land interests acquired with the SEP Offset Amount. The Third-Party Administrator shall record a copy of each conservation easement in the county deed records within 15 days of closing. The Third-Party Administrator certifies that the conservation easements purchased for this Project will not be used as any additional or future mitigation project. The Third-Party Administrator shall also use the SEP Offset Amount for habitat restoration and enhancement, including planting native trees. Restoration activities will be conducted by a contractor and will take place on property protected by a conservation easement. Prior to commencing restoration activities, the Third-Party Administrator shall submit a proposal to TCEQ that includes the exact property location and description, property owner information, specific restoration activities to be conducted, amount of the SEP Offset Amount to be used for restoration activities, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for the approved restoration activities. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely

ZACHRY-ODEBRECHT PARKWAY BUILDERS
Agreed Order - Attachment A

in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Rapid development in the Lake Houston Watershed has led to removal of the natural riparian buffers along the waterways, which jeopardizes the air and water quality. Spring Creek, Cypress Creek, Lake Creek, and the West Fork of the San Jacinto River are major water sources for Lake Houston, which is Houston's primary source of drinking water. When land is cleared and developed within these floodplains, the water becomes more turbid and often has increased *Escherichia coli* bacteria and other negative water quality contaminants.

Lands permanently preserved with conservation easements maintain vegetated banks and wooded floodplains to allow river overflow. When floodwater passes through the floodplain, the vegetated substrates are not eroded away, and the banks are maintained. Preserving the natural vegetated banks will help maintain water quality in this area. Additionally, many of the properties Third-Party Administrator will secure with conservation easements will be open to the public for low-impact recreational uses, and wildlife will benefit from connected habitat and undisturbed access to water sources.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Bayou Land Conservancy SEP** and shall mail the contribution with a copy of the Agreed Order to:

Bayou Land Conservancy
Attention: Stephanie Prosser, Senior Conservation Lands Biologist
10330 Lake Road, Building J
Houston, Texas 77070

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter

ZACHRY-ODEBRECHT PARKWAY BUILDERS
Agreed Order - Attachment A

indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the 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 the Respondent failed to fully implement and complete the Project, the 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. After receiving notice of failure to complete the SEP, the 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 SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

ZACHRY-ODEBRECHT PARKWAY BUILDERS
Agreed Order - Attachment A

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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	9-Feb-2015	Screening	11-Feb-2015	EPA Due	
	PCW	8-May-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 1)
Reg. Ent. Ref. No.	RN106721632
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	50102	Order Type	1660
Docket No.	2015-0260-WQ-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Larry Butler
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
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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.

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$937
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Notes: Enhancement for five months of self-reported effluent violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$937
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$377
Estimated Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$3,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,750
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DEFERRAL	20.0% Reduction	Adjustment	-\$750
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,000
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Screening Date 11-Feb-2015

Docket No. 2015-0260-WQ-E

PCW

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 1)

Policy Revision 4 (April 2014)

Case ID No. 50102

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106721632

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

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>)	5	25%
	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 judgments 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) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 11-Feb-2015

Docket No. 2015-0260-WQ-E

PCW

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 1)

Policy Revision 4 (April 2014)

Case ID No. 50102

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106721632

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System General Permit No. TXG111406 Part III. Section A.1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on December 11, 2014. Specifically, the total suspended solids daily maximum concentration exceeded the permit limit of 65 milligrams per liter ("mg/L") for the months of February (231 mg/L), May (121 mg/L), June (97.6 mg/L), and September (179.5 mg/L) 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

119 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

Three quarterly events are recommended for the quarters containing the months of February, May, June, and September 2014.

Good Faith Efforts to Comply

25.0%

Reduction \$937

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

Notes The Respondent achieved compliance by November 30, 2014.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$377

Violation Final Penalty Total \$3,751

This violation Final Assessed Penalty (adjusted for limits) \$3,751

Economic Benefit Worksheet

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 1)
Case ID No. 50102
Reg. Ent. Reference No. RN106721632
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
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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	28-Feb-2014	30-Nov-2014	0.75	\$377	n/a	\$377

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility to return to compliance with permitted effluent limits. Date required is the initial date of noncompliance. Final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$377

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604282954, RN106721632, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604282954, ZACHRY-ODEBRECHT PARKWAY BUILDERS **Classification:** SATISFACTORY **Rating:** 1.08

Regulated Entity: RN106721632, CONCRETE BATCH PLANT G **Classification:** SATISFACTORY **Rating:** 1.71

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: located on the west side of Interstate 45 north of the railroad at Spring Stuebner Road in Houston, Harris County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

WASTEWATER PERMIT TXG111406

AIR NEW SOURCE PERMITS PERMIT 110055L001

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 86693

Compliance History Period: September 01, 2009 to August 31, 2014

Rating Year: 2014

Rating Date: 09/01/2014

Date Compliance History Report Prepared: February 10, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 10, 2010 to February 10, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Larry Butler

Phone: (512) 239-2543

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CEEDS Inv. Track. No.):

N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	17-Feb-2015	Screening	18-Feb-2015	EPA Due	
	PCW	8-May-2015				

RESPONDENT/FACILITY INFORMATION			
Respondent	ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 2)		
Reg. Ent. Ref. No.	RN107046617		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	50102	No. of Violations	1
Docket No.	2015-0260-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Larry Butler
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	30.0% Enhancement	Subtotals 2, 3, & 7	\$750
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Notes: Enhancement for six months of self-reported effluent violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$293
Estimated Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$2,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,625
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DEFERRAL	20.0% Reduction	Adjustment	-\$525
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,100
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Screening Date 18-Feb-2015

Docket No. 2015-0260-WQ-E

PCW

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 2)

Policy Revision 4 (April 2014)

Case ID No. 50102

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107046617

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

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>)	6	30%
	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 judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for six months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 18-Feb-2015

Docket No. 2015-0260-WQ-E

PCW

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 2)

Policy Revision 4 (April 2014)

Case ID No. 50102

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107046617

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG111431 Part III. Section A.1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on December 17, 2014, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	5.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 123 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

Two quarterly events are recommended for the quarters containing the months of May, July, August and September 2014.

Good Faith Efforts to Comply

25.0%

Reduction \$625

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

Notes

The Respondent achieved compliance by December 31, 2014.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$293

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 2)
Case ID No. 50102
Reg. Ent. Reference No. RN107046617
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
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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				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-May-2014	31-Dec-2014	0.59	\$293	n/a	\$293

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility to return to compliance with permitted effluent limits. Date required is the initial date of noncompliance. 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

\$10,000

TOTAL

\$293

ZACHRY-ODEBRECHT PARKWAY BUILDERS
GB Batch Plant (Facility 2)
Docket No. 2015-0260-WQ-E
TPDES General Permit No. TXG111431

Effluent Parameter Violation Table

	Total Suspended Solids	pH
	Daily Maximum Concentration	Maximum
Month/Year	Limit = 65 mg/L	Limit = 9 SU
May 2014	166	9.15
July 2014	68	9.21
August 2014	621	9.75
September 2014	131.5	c

c= compliant

mg/L = milligrams per liter

SU= standard unit

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TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604282954, RN107046617, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604282954, ZACHRY-ODEBRECHT PARKWAY BUILDERS **Classification:** SATISFACTORY **Rating:** 1.74

Regulated Entity: RN107046617, GB BATCH PLANT **Classification:** SATISFACTORY **Rating:** 3.20

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: located in the northeast quadrant of United States Highway 59 and Grand Parkway at Eagle Drive in New Caney, Montgomery County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION 86937

WASTEWATER PERMIT TXG111431

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: February 17, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 17, 2010 to February 17, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Larry Butler

Phone: (512) 239-2543

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	23-Feb-2015	Screening	24-Feb-2015	EPA Due	
	PCW	23-Apr-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 3)
Reg. Ent. Ref. No.	RN106776644
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	50102	Order Type	1660
Docket No.	2015-0260-WQ-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Larry Butler
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	15.0% Enhancement	Subtotals 2, 3, & 7	\$375
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Notes	Enhancement for three months of self-reported effluent violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$624
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$626	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,251
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$2,251
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,251
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DEFERRAL	20.0% Reduction	Adjustment	-\$450
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$1,801
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Screening Date 24-Feb-2015

Docket No. 2015-0260-WQ-E

PCW

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 3)

Policy Revision 4 (April 2014)

Case ID No. 50102

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106776644

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

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>)	3	15%
	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 judgments 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) 15%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 15%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 15%

Screening Date 24-Feb-2015

Docket No. 2015-0260-WQ-E

PCW

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 3)

Policy Revision 4 (April 2014)

Case ID No. 50102

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106776644

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG111385 Part III, Section A.1, Outfall No. 001A

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on February 5, 2015, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

61 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the months of October and November 2013.

Good Faith Efforts to Comply

25.0%

Reduction \$312

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent achieved compliance by January 31, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$626

Violation Final Penalty Total \$1,126

This violation Final Assessed Penalty (adjusted for limits) \$1,126

Economic Benefit Worksheet

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 3)
Case ID No. 50102
Reg. Ent. Reference No. RN106776644
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Oct-2013	31-Jan-2015	1.25	\$626	n/a	\$626

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility to return to compliance with permitted effluent limits. Date required is the initial date of noncompliance. 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

\$10,000

TOTAL

\$626

Screening Date 24-Feb-2015

Docket No. 2015-0260-WQ-E

PCW

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 3)

Policy Revision 4 (April 2014)

Case ID No. 50102

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106776644

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES General Permit No. TXG111385 Part III. Section A.1, Outfall No. 003A

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on February 5, 2015, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the month of October 2013.

Good Faith Efforts to Comply

25.0%

Reduction \$312

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance by January 31, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,126

This violation Final Assessed Penalty (adjusted for limits) \$1,126

Economic Benefit Worksheet

Respondent ZACHRY-ODEBRECHT PARKWAY BUILDERS (Facility 3)
Case ID No. 50102
Reg. Ent. Reference No. RN106776644
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Economic benefit for this violation is included with Violation No. 1

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

ZACHRY-ODEBRECHT PARKWAY BUILDERS
Traylor Brothers Mesa Precast Yard (Facility 3)
Docket No. 2015-0260-WQ-E
TPDES General Permit No. TXG111385

Effluent Parameter Violation Table

	Outfall Number 001A	Outfall Number 003A
	Total Suspended Solids	Total Suspended Solids
	Daily Maximum Concentration	Daily Maximum Concentration
Month/Year	Limit = 65 mg/L	Limit = 65 mg/L
October 2013	212	104
November 2013	129	c

c = compliant mg/L = milligrams per liter

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TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604282954, RN106776644, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604282954, ZACHRY-ODEBRECHT PARKWAY BUILDERS **Classification:** SATISFACTORY **Rating:** 2.24

Regulated Entity: RN106776644, TRAYLOR BROTHERS MESA PRECAST YARD **Classification:** SATISFACTORY **Rating:** 2.00

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: located at 11022 Mesa Drive in Houston, Harris County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
WASTEWATER PERMIT TXG111385

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: February 24, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 24, 2010 to February 24, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Larry Butler **Phone:** (512) 239-2543

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
N/A
- C. Chronic excessive emissions events:**
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ZACHRY-ODEBRECHT
PARKWAY BUILDERS
RN106721632, RN107046617, AND
RN106776644**

§
§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-0260-WQ-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ZACHRY-ODEBRECHT PARKWAY BUILDERS ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates concrete batch plants located:
 - a. on the west side of Interstate 45 north of the railroad at Spring Stuebner Road in Houston, Harris County, Texas ("Facility 1"); and
 - b. in the northeast quadrant of the United States Highway 59 and Grand Parkway at Eagle Drive in New Caney, Montgomery County, Texas ("Facility 2").
2. The Respondent operates a concrete batch plant located at 11022 Mesa Drive in Houston, Harris County, Texas ("Facility 3") collectively with Facility 1 and Facility 2.
3. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
4. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

5. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about February 4, 2015 for Facility 1, February 15, 2015 for Facility 2, and February 22, 2015 for Facility 3.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
7. An administrative penalty in the amount of Eight Thousand Six Hundred Twenty-Six Dollars (\$8,626) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Four Hundred Fifty-One Dollars (\$3,451) of the administrative penalty and One Thousand Seven Hundred Twenty-Five Dollars (\$1,725) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Three Thousand Four Hundred Fifty Dollars (\$3,450) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
8. 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.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures:
 - a. By November 30, 2014, installed additional best management practices ("BMPs") for sediment control and returned to compliance with all permitted effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG111406 at Facility 1;
 - b. By December 31, 2014, installed additional BMPs for sediment control and returned to compliance with all permitted effluent limitations of TPDES General Permit No. TXG111431 at Facility 2; and
 - c. By January 31, 2015, installed additional BMPs for sediment control and returned to compliance with all permitted effluent limitations of TPDES General Permit No. TXG111385 at Facility 3.
10. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
11. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
12. 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.

13. 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. As owner and operator of Facility 1, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXG111406 Part III. Section A.1., as documented during a record review conducted on December 11, 2014. Specifically, the total suspended solids daily maximum concentration exceeded the permit limit of 65 milligrams per liter ("mg/L") for the months of February (231 mg/L), May (121 mg/L), June (97.6 mg/L), and September (179.5 mg/L) 2014.
2. As owner and operator of Facility 2, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXG111431 Part III. Section A.1, as documented during a record review conducted on December 17, 2014 and shown in the violation table below:

Effluent Parameter Violation Table		
	Total Suspended Solids	pH
	Daily Maximum Concentration	Maximum
Month/Year	Limit = 65 mg/L	Limit = 9 SU
May 2014	166	9.15
July 2014	68	9.21
August 2014	621	9.75
September 2014	131.5	c

c= compliant SU= standard units

3. As operator of Facility 3, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES General Permit No. TXG111385 Part III. Section A.1, as documented during a record review conducted on February 5, 2015 and shown in the violation table below:

Effluent Parameter Violation Table		
	Outfall Number 001A	Outfall Number 003A
	Total Suspended Solids	Total Suspended Solids
	Daily Maximum Concentration	Daily Maximum Concentration
Month/Year	Limit = 65 mg/L	Limit = 65 mg/L
October 2013	212	104
November 2013	129	c

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the 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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: ZACHRY-ODEBRECHT PARKWAY BUILDERS, Docket No. 2015-0260-WQ-E" to:

Financial Administration Division, Revenue Operations Section
 Attention: Cashier's Office, MC 214
 Texas Commission on Environmental Quality
 P.O. Box 13088
 Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 7 above, Three Thousand Four Hundred Fifty Dollars (\$3,450) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, are implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a

violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Maveira
For the Executive Director

09/14/15
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

Jorge A. Laris
Signature

May 25th, 2015
Date

Jorge A. Laris
Name (Printed or typed)
Authorized Representative of
ZACHRY-ODEBRECHT PARKWAY BUILDERS

AUTH. REPRESENTATIVE
Title

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

Attachment A
Docket Number: 2015-0260-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	ZACHRY-ODEBRECHT PARKWAY BUILDERS
Penalty Amount:	Six Thousand Nine Hundred One Dollars (\$6,901)
SEP Offset Amount:	Three Thousand Four Hundred Fifty Dollars (\$3,450)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Bayou Land Conservancy
Project Name:	<i>Lake Houston Watershed – Western Watershed Protection Project</i>
Location of SEP:	Harris and Montgomery Counties; San Jacinto River Basin; and Gulf Coast Aquifer

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

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Bayou Land Conservancy** for the *Lake Houston Watershed – Western Watershed Protection Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”).

The Third-Party Administrator has identified approximately 600 acres along the West Fork of the San Jacinto River, Spring Creek, Cypress Creek, and Lake Creek for acquisition of perpetual conservation easements in accordance with Subchapter A, Chapter 183, Texas Natural Resources Code. The goal of this Project is to protect the floodplain within the western tributaries of the Lake Houston Watershed. Specifically, the SEP Offset Amount will be used to conduct certain due diligence activities and to purchase conservation easements from private and public landowners. The Third-Party Administrator shall also conduct restoration work as necessary on properties that were previously degraded before being placed under a conservation easement. Targeted properties are owned by Harris County, Montgomery County, and private landowners.

ZACHRY-ODEBRECHT PARKWAY BUILDERS
Agreed Order - Attachment A

After a property has been identified for conservation easement acquisition, the Third-Party Administrator shall submit a proposal to TCEQ that includes property owner information, approximate boundaries and aerial maps, preliminary flora/fauna lists and environmental details of stream frontage, wetland acreage, habitat type, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for approved due diligence activities and purchase of the conservation easement.

After TCEQ approval, the Third-Party Administrator shall prepare a baseline inventory and mapping of the property. The baseline inventory will assess the ecological health of the tract, including onsite biological inventories of all flora and fauna species. Mapping will be completed by collecting data to prepare flood, topographic, wetland, soil, and aerial field maps. This information will determine whether restoration activities will be necessary and will also ensure that the Third-Party Administrator can preserve the ecological health of the property in the future.

The Third-Party Administrator shall address and remedy all encumbrances to the property title, including mortgages and other liens, prior to closing on the conservation easement purchase. The Third-Party Administrator shall not sell conservation easements or any other land interests acquired with the SEP Offset Amount. The Third-Party Administrator shall record a copy of each conservation easement in the county deed records within 15 days of closing. The Third-Party Administrator certifies that the conservation easements purchased for this Project will not be used as any additional or future mitigation project. The Third-Party Administrator shall also use the SEP Offset Amount for habitat restoration and enhancement, including planting native trees. Restoration activities will be conducted by a contractor and will take place on property protected by a conservation easement. Prior to commencing restoration activities, the Third-Party Administrator shall submit a proposal to TCEQ that includes the exact property location and description, property owner information, specific restoration activities to be conducted, amount of the SEP Offset Amount to be used for restoration activities, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for the approved restoration activities. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely

ZACHRY-ODEBRECHT PARKWAY BUILDERS
Agreed Order - Attachment A

in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Rapid development in the Lake Houston Watershed has led to removal of the natural riparian buffers along the waterways, which jeopardizes the air and water quality. Spring Creek, Cypress Creek, Lake Creek, and the West Fork of the San Jacinto River are major water sources for Lake Houston, which is Houston's primary source of drinking water. When land is cleared and developed within these floodplains, the water becomes more turbid and often has increased *Escherichia coli* bacteria and other negative water quality contaminants.

Lands permanently preserved with conservation easements maintain vegetated banks and wooded floodplains to allow river overflow. When floodwater passes through the floodplain, the vegetated substrates are not eroded away, and the banks are maintained. Preserving the natural vegetated banks will help maintain water quality in this area. Additionally, many of the properties Third-Party Administrator will secure with conservation easements will be open to the public for low-impact recreational uses, and wildlife will benefit from connected habitat and undisturbed access to water sources.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Bayou Land Conservancy SEP** and shall mail the contribution with a copy of the Agreed Order to:

Bayou Land Conservancy
Attention: Stephanie Prosser, Senior Conservation Lands Biologist
10330 Lake Road, Building J
Houston, Texas 77070

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter

ZACHRY-ODEBRECHT PARKWAY BUILDERS
Agreed Order - Attachment A

indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the 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 the Respondent failed to fully implement and complete the Project, the 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. After receiving notice of failure to complete the SEP, the 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 SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

ZACHRY-ODEBRECHT PARKWAY BUILDERS
Agreed Order - Attachment A

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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.