

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Jon Niermann, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

June 13, 2016

Bridget C. Bohac  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Application by Clean Harbors San Leon, Inc. WQ0004086000; TCEQ Docket  
No. 2016-0666-MWD

Dear Ms. Bohac:

I have enclosed the Executive Director's Response to Hearing Requests and Response to Requests for Reconsideration in the above-entitled matter. Please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Ashley McDonald". The signature is written in black ink and is positioned above a horizontal line.

Ashley McDonald  
Staff Attorney  
Environmental Law Division

Enclosure

cc: Mailing List

**TCEQ DOCKET NO. 2016-0666-IWD**

<b>APPLICATION BY</b>	§	<b>BEFORE THE</b>
<b>CLEAN HARBORS SAN LEON,</b>	§	
<b>INC. FOR</b>	§	<b>TEXAS COMMISSION ON</b>
<b>TPDES PERMIT NO.</b>	§	
<b>WQ0004086000</b>	§	<b>ENVIRONMENTAL QUALITY</b>

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**Executive Director’s Response to Hearing Requests and Requests for Reconsideration**

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**I. Introduction**

The Executive Director of the Texas Commission on Environmental Quality (the TCEQ or Commission) files this Response to Hearing Requests (Response) and Requests for Reconsideration on the application of Clean Harbors San Leon, Inc. for a major amendment of the existing permit Texas Pollutant Discharge Elimination System Permit (TPDES) No. WQ0004086000. The Office of the Chief Clerk (OCC) received timely hearing requests from Save our Shores (SOS), MaryLou Bishop, Kelley Dawson, Rosie Dawson, Peter S. Donzello, Emily Forswall, Hajrulla Halili, Valerie Hawley, Joe Manchaca, John and Mary McCracken, Aubrey Page, Terry Singletary, and Barbara Thompson.

- Attached for Commission consideration are the following:
- Attachment A – GIS Map
  - Attachment B – Compliance History Report (CN603349820)
  - Attachment C – Compliance History Report (CN600564165)

**II. Description of the Facility**

Clean Harbors San Leon, Inc., has applied to the TCEQ for a major amendment of its existing permit to authorize the discharge of treated process wastewater and treated contaminated stormwater at a daily average flow not to exceed 105,000 gallons per day via proposed internal Outfall 101. The draft permit authorizes the discharge of stormwater associated with industrial activity and previously monitored effluent (treated process wastewater and treated contaminated stormwater from internal Outfall 101) on an intermittent and flow-variable basis via Outfall 001. Final effluent limitations are established in the draft permit as follows:

<i>Outfall</i>	<i>Pollutant</i>	<i>Daily Average</i>		<i>Daily Maximum</i>	
		<i>mg/L</i>	<i>lbs/day</i>	<i>mg/L</i>	<i>lbs/day</i>
001	Flow	Report, MGD		Report, MGD	
	Total Organic Carbon	N/A	N/A	55	N/A
	Oil and Grease	N/A	N/A	15	N/A

<i>Outfall</i>	<i>Pollutant</i>	<i>Daily Average</i>		<i>Daily Maximum</i>	
		<i>mg/L</i>	<i>lbs/day</i>	<i>mg/L</i>	<i>lbs/day</i>
101	BTEX	N/A	N/A	0.5	N/A
	Total Zinc	N/A	N/A	6.0	N/A
	pH	6.0 SU, min		9.0 SU	
	Flow	0.105 MGD		0.165 MGD	
	Oil & Grease	38.0	33.2	127	111
	Total Suspended Solids	30.6	26.8	74.1	64.9
	Total Arsenic	1.33	1.16	2.95	2.58
	Total Cadmium	0.0102	0.00893	0.0172	0.0150
	Total Chromium	0.323	0.283	0.746	0.653
	Total Cobalt	18.8	16.4	56.4	49.4
	Total Copper	0.242	0.212	0.500	0.438
	Total Lead	0.160	0.140	0.350	0.306
	Total Mercury	0.00647	0.00566	0.0172	0.0150
	Total Tin	0.165	0.144	0.335	0.293
	Total Zinc	4.50	3.94	8.26	7.23
0	Bis(2-ethylhexyl) phthalate	0.101	0.0884	0.215	0.188
	Butylbenzyl phthalate	0.0887	0.0777	0.188	0.164
	Carbazole	0.276	0.241	0.598	0.523
	n-Decane	0.437	0.382	0.948	0.830
	Fluoranthene	0.0268	0.0234	0.0537	0.0470
	n-Octadecane	0.302	0.264	0.589	0.516
	Total Petroleum Hydrocarbons	Report	Report	Report	Report
pH	6.0 SU, min		9.0 SU		

If the draft permit is issued, the treated effluent will be discharged to a drainage ditch; thence to an unnamed tidal tributary of Dickinson Bayou Tidal; thence to Dickinson Bayou Tidal in Segment No. 1103 of the San Jacinto-Brazos Coastal Basin. The unclassified receiving waters have minimal aquatic life use for the unnamed ditch and high aquatic life use for the unnamed tidal tributary. The designated uses for Segment No. 1103 are high aquatic life use and primary contact recreation. The facility is located at 2700 Avenue S, San Leon, Texas 77539.

### III. Procedural Background

The TCEQ received Clean Harbors San Leon, Inc.'s application for a major amendment without renewal of the TDPEs permit on May 04, 2015 and declared it administratively complete on June 24, 2015. The Notice of Receipt and Intent to Obtain a Water Quality Permit (NORI) was published in the Galveston County Daily News on July 16, 2015 and in the El Observador News (Spanish) on July 24, 2015. The technical review was complete on August 13, 2015 and the Notice of Application and Preliminary Decision (NAPD) for a Water Quality Permit was published in the Galveston County Daily News on September 20, 2015 and in El Observador News (Spanish) on September 18, 2015. A public meeting was held January 25, 2016, at the Johnson Community Center. The public comment period closed on January 25,

2016. The Executive Director's Response to Comment was filed on March 30, 2016 and the Executive Director's Final Decision Letter was mailed on April 01, 2016. The deadline for filing a Request for Reconsideration or Contested Case Hearing ended on May 05, 2016. This application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

#### **IV. Evaluation Process for Hearing Requests**

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The Commission implemented House Bill 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55. The application was declared administratively complete on June 1, 2013; therefore it is subject to the procedural requirement of HB 801.

##### **A. Response to Request**

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

- a) whether the requestor is an affected person;
- b) whether issues raised in the hearing request are disputed;
- c) whether the dispute involves questions of fact or of law;
- d) whether the issues were raised during the public comment period;
- e) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- f) whether the issues are relevant and material to the decision on the application; and
- g) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

##### **B. Hearing Request Requirements**

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements.

A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

- a) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group

or association, the request must identify one person by name, address, daytime telephone number, and, where possible fax number, who shall be responsible for receiving all official communications and documents for the group;

- b) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a matter not common to members of the general public;
  - c) request a contested case hearing;
  - d) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's response to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
  - e) provide any other information specified in the public notice of application.
- 30 TAC § 55.201(d).

### **C. "Affected Person" Status**

In order to grant a contested case hearing, the Commission must determine that a requestor is an "affected person." Section 55.203 sets out who may be considered an affected person.

- a) For any application, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest.
- b) Except as provided by 30 TAC § 55.103, government entities, including local governments and public agencies, with authority under state law over issues raised by the application,
- c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
  - 1) whether the interest claimed is one protected by the law under which the application will be considered;
  - 2) distance restrictions or other limitations imposed by law on the affected interest;
  - 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
  - 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
  - 5) likely impact of the regulated activity on the use of the impacted natural resource by the person; and
  - 6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 50.203.

A group or association may also request a contested case hearing. In order for a group or association to request a contested case hearing, the group or association must show that it meets the following requirements:

- a) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- b) the interests the group or association seeks to protect are germane to the organization's purpose; and
- c) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

30 TAC § 55.205(a). In addition the Executive Director, Public Interest Counsel, or the Applicant may request that a group or association provide an explanation of how the group or association meets the above requirements. 30 TAC § 55.205(b).

#### ***D. Referral to the State Office of Administrative Hearings (SOAH)***

When the Commission grants a request for a contested case hearing, they are required to issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing. 30 TAC § 50.115(b). Subsection 50.115(c) sets out the test for determining whether an issue may be referred to SOAH. "The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: 1) involves a disputed question of fact; 2) was raised during the public comment period; and 3) is relevant and material to the decision on the application." 30 TAC § 50.115(c).

#### ***E. Response to Request for Reconsideration***

The Executive Director, the public interest counsel, and the applicant may submit written responses to the request for reconsideration. 30 TAC §55.209(d). The response should address the issues raised in the request. 30 TAC §55.209(f).

#### ***F. Request for Reconsideration Requirements***

Any person may file a request for reconsideration of the Executive Director's decision. However, for the Commission to consider the request, it must substantially comply with the following: give the name, address, daytime telephone number and, when possible, fax number of the person who files the request; expressly state that the person is requesting reconsideration of the Executive Director's decision; and give reasons why the decision should be reconsidered. 30 TAC §55.201(e).

### **V. Analysis of the Requests**

The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, who qualifies as an affected person, what issues may be referred for a contested hearing, and what is the appropriate length of the hearing.

## **A. Whether the Requestors Complied with 30 TAC § 55.201 (c) and (d).**

The public comment period for this permit application ended on January 25, 2016. The period for timely filing a request for a contested case hearing ended on May 02, 2016. SOS, Marylou Bishop, Kelly Dawson, Peter Donzello, Harjulla Halili, Valerie Hawley, Emily Forswall, John and Mary McCracken, Aubrey Page all submitted timely hearing requests. They provided their addresses and phone numbers, or those of their representative, and requested a contested case hearing. They identified themselves as persons with what they believed to be personal justiciable interests affected by the application, which will be discussed in greater detail below, and provided disputed issues of fact that were raised during the comment period. The Executive Director concludes that these hearing requests substantially comply with the section 55.201(c) and (d) requirements.

Hearing requestors Barbara Thompson, Terry Singletary and Joe Manchaca submitted timely hearing requests, in writing, and identified themselves as persons with what they believe to be personal justiciable interests affected by the application. However, these requestors failed to submit a physical address or identify their property location in relation to the facility. The Executive Director concludes that these hearing requests do not substantially comply with the section 55.201(c) and (d) requirements.

Hearing requestors Fran Steele, Rosie Dawson, Harjurulla Halili, and Joe Manchaca submitted timely hearing requests, but did not raise any issues. They provided their address and phone numbers, of those of their representative, and requested a hearing. However they did not provide any disputed issues of fact that were raised during the public comment period. The Executive Director concludes that these hearing requests do not substantially comply with the section 55.201(c) and (d) requirements.

## **B. Whether the Individual Requestors Meet the Affected Person Requirements of 30 TAC §55.203.**

### **1. Valarie Hawley**

The Executive Director reviewed the factors listed in 30 TAC §55.203 for determining if an individual is an affected person and recommends that the Commission find that Valerie Hawley is an affected person because she has a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public, and the issues raised are included in the factors delineated in 30 TAC §55.203. Specifically, Ms. Hawley raised the following issues: 1) impacts of the discharge on her and her family's recreational use of Dickinson Bayou, 2) the financial incentives of operating the facility to the Applicant, 3) the possibility of future expansion of the facility and 4) the impacts of the amount of effluent discharged at the facility on Dickinson Bayou.

The Executive Director considered whether Valerie Hawley has an interest that is not common with members of the general public. In her hearing request, Ms. Hawley states that she and her husband live on Dickinson Bay about a mile from the facility. Ms. Hawley's property is located over one mile downstream from the proposed discharge point, along Dickinson Bayou. The Executive Director also considered the issues in 30 TAC § 55.203(c) and determined that there is a reasonable relationship between the potential for pollution of Dickinson Bayou and the proposed wastewater discharge permit.

In her hearing request Ms. Hawley identified a personal justiciable interest that is not common to members of the public and identified a reasonable relationship between his concerns and the discharge authorized by the proposed permit; therefore, the Executive Director recommends that the Commission find that Valerie Hawley is an affected person.

## **2. Emily Forswall**

The Executive Director reviewed the factors listed in 30 TAC §55.203 for determining if a person is an affected person and recommends that the Commission find that Emily Forswall is not an affected person because she does not have a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public. In her hearing request, Ms. Forswall raised the following issues: 1) whether the application and related filings should be provided online, and 2) that she is concerned about the health of the bayou and the bay if the permit for additional effluent is approved. Based on the address provided, Ms. Forswall's property is located in the City of Houston.

All of the issues raised by Emily Forswall are interests that are common to members of the general public; therefore, the Executive Director recommends that the Commission find that Emily Forswall is not an affected person.

## **3. Aubrey Page**

The Executive Director reviewed the factors listed in 30 TAC §55.203 for determining if a person is an affected person and recommends that the Commission find that Aubrey Page is not an affected person because she does not have a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public. In her hearing request, Ms. Page stated that the company has repeated violations of contamination with arsenic on record and to the allow them to discharge an additional 350,000 gallons is not good judgement, until they can show no violations for at least two years.

The Executive Director considered whether Aubrey Page has an interest that is not common with members of the general public. Based on the address provided in her hearing request, Ms. Page's property is not located near the facility or along the discharge route of Dickinson Bayou nor did she describe how her interests in the issues raised are different from the general public. The only Aubrey Page raised is an

interest is in common with the general public; therefore, the Executive Director recommends that the Commission find that Aubrey Page is not an affected person.

#### **4. Kelley Dawson**

The Executive Director reviewed the factors listed in 30 TAC §55.203 for determining if a person is an affected person and recommends that the Commission find that Kelley Dawson is not an affected person because she does not have a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public. In his hearing request Mr. Dawson raised the following issues: 1) the use of the Bay for food, fun and recreation, and 2) he stated that the company's compliance history is not good.

The Executive Director considered whether Kelley Dawson has an interest that is not common with members of the general public. The address Mr. Dawson provided is located in the City of Kemah, north of the facility near the Galveston Bay. Also, Mr. Dawson's hearing failed to identify his personal justiciable interest in the issue raised that is not common to members of the public. The issues raised by Kelley Dawson are interests that are common to members of the general public; therefore, the Executive Director recommends that the Commission find that Kelley Dawson is not an affected person.

#### **5. MaryLou Bishop**

The Executive Director reviewed the factors listed in 30 TAC §55.203 for determining if a person is an affected person and recommends that the Commission find that MaryLou Bishop is an affected person because she has a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public, and the issues raised are included in the factors delineated in 30 TAC §55.203. In her hearing request Ms. Bishop raises issues regarding 1) the impacts of the discharge on Dickinson Bayou, 2) impacts of the discharge on aquatic life in Dickinson Bayou, 3) impacts to human health, and 4) the local community's economic dependence on the bayou.

The Executive Director considered whether MaryLou Bishop has an interest that is not common with members of the general public. In her hearing request Ms. Bishop stated that her family has owned property for a number of years along Dickinson Bayou, and that she is located right around the corner from the facility in Hillman's Landing. Based on the GIS map, Ms. Bishop's property approximately one mile upstream from the discharge point along the Dickinson Bayou. Due to her distance from the proposed discharge point it is not likely Ms. Bishop will be impacted.

All of the issues Ms. Bishop raised are interest that are in common with the general public; therefore, the Executive Director recommends that the Commission find that the MaryLou Bishop is not an affected person.

## **6. John and Mary Ann McCracken**

The Executive Director reviewed the factors listed in 30 TAC §55.203 for determining if a person is an affected person and recommends that the Commission find that John and Mary Ann McCracken are not an affected persons because they do not have a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public. In their hearing request the McCracken's raised issues regarding 1)air and smoke pollution, 2) testing procedures at the facility, 3) location of the facility below sea level, 3) impacts of the discharge to the recreation uses of Dickinson Bayou, 4) recycling of wastewater at the facility, 5) the treatment and storage of waste at the facility, 6) impacts of the wastewater on human health and aquatic life in Dickinson Bayou, and 7) maintenance of equipment at the facility.

The Executive Director considered whether John and Mary McCracken have an interest that is not common with members of the general public. Based on the address provided in their hearing request, it does not appear that the McCrackens live in proximity to the facility or along the discharge route, Dickinson Bayou. Also, the McCrackens did not describe how their interest in the issues they raised are different from the interests of the general public; therefore, the Executive Director recommends that the Commission find that the McCrackens are not affected persons.

## **7. Fran Steele**

The Executive Director reviewed the factors found in 30 TAC § 55.203 for determining if a person is an affected person and recommends that the Commission find that Fran Steele is not an affected person because he does not have a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public. Fran Steele did not raise any issues.

Because Fran Steele did not raise any issues, the Executive Director recommends that the Commission find that Fran Steele is not an affected person.

## **8. Peter S. Donzello**

The Executive Director reviewed the factors listed in 30 TAC §55.203 for determining if a person is an affected person and recommends that the Commission find that Peter S. Donzello is an affected person because he has a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public. In his hearing request, Mr. Donzello raised the following issues: 1) concerns regarding the health of the bay, and 2) the potential impact of additional pollutants in Dickinson Bay.

The Executive Director considered whether Peter S. Donzello has an interest that is not common with members of the general public. Mr. Donzello stated that he and his wife live on the waters of Dickson Bay in the Edwards Landing Subdivision of San Leon Texas. Mr. Donzello does appear to live over one mile downstream from the proposed discharge point, along Dickinson Bay. Additionally, because of Mr.

Donzello's proximity to the proposed discharge, he is more likely to be impacted by the proposed discharge activities than members of the general public. The Executive Director also considered the issues in 30 TAC § 55.203(c) and determined that there is a reasonable relationship between the potential for pollution of Dickinson Bayou and the proposed wastewater discharge permit.

Mr. Donzello identified a personal justiciable interest that is not common to the general public and identified a reasonable relationship between his concerns and the discharge authorized by the proposed permit; therefore, the Executive Director recommends that the Commission find that Peter S. Donzello is an affected person.

#### **9. Harijulla Halili/Razz Halili Trust**

The Executive Director reviewed the factors found in 30 TAC § 55.203 for determining if a person is an affected person and recommends that the Commission find that Harijulla Halili is not an affected person because he does not have a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public. Harijulla Halili did not raise any issues.

Because Harijulla Halili did not raise any issues, the Executive Director recommends that the Commission find that Harijulla Halili is not an affected person.

#### **10. Barbara Thompson**

The Executive Director reviewed the factors found in 30 TAC § 55.203 for determining if a person is an affected person and recommends that the Commission find that Barbara Thompson is not an affected person because she does not have a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public. In her hearing request, Ms. Thompson raised issues regarding 1) possible contamination to Dickinson Bayou and Galveston Bay, 2) impacts to marine and human life, and 3) concerns regarding the compliance history of the Applicant.

The Executive Director considered whether Barbara Thompson has an interest that is not common with members of the general public. In her hearing request Ms. Thompson failed to provide her address or provide a statement identifying her property location in relation to the facility; Ms. Thompson only provided a post office box number. Also, Ms. Thompson did not identify her interest in the issues raised that is not common to the members of the general public; therefore, the Executive Director recommends that the Commission find that Barbara Thompson is not an affected person.

#### **11. Terry Singeltary**

The Executive Director reviewed the factors found in 30 TAC § 55.203 for determining if a person is an affected person and recommends that the Commission find that Terry Singeltary is not an affected person because she does not have a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general

public. In his hearing request, Mr. Singeltary stated that he has concerns regarding 1) the Applicant's compliance history, 2) impacts of the proposed discharge on Dickinson Bayou, 3) the aquatic life in the bayou, and 4) the recreational use of the bayou by children in the area.

The Executive Director considered whether Terry Singeltary has an interest that is not common with members of the general public. Mr. Singeltary did not provide his address or identify where his property is located in relation to the facility. He only provided a post office box. Also, Mr. Singeltary did not describe how his interest in the issues raised are different from the interests of the general public; therefore, the Executive Director recommends that the Commission find that Terry Singeltary is not an affected person.

### **12. Rosie Dawson**

The Executive Director reviewed the factors found in 30 TAC § 55.203 for determining if a person is an affected person and recommends that the Commission find that Rosie Dawson is not an affected person because he does not have a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public. Rosie Dawson did not raise any issues.

Because Rosie Dawson did not raise any issues, the Executive Director recommends that the Commission find that Rosie Dawson is not an affected person.

### **13. Joe Manchaca**

The Executive Director reviewed the factors found in 30 TAC § 55.203 for determining if a person is an affected person and recommends that the Commission find that Joe Manchaca is not an affected person because she does not have a personal justiciable interest related to a legal right, duty, privilege power or economic interest affected by the application, that is not common to members of the general public. It is unclear whether Mr. Manchaca submitted a hearing request as an individual or on behalf of the San Leon Municipal Utility District.

In his hearing request, Mr. Manchaca did not identify the location of his property or a physical address. He only provided a post office box number. Additionally, Mr. Manchaca did not raise any issues in his hearing request. Therefore, the Executive Director recommends that the Commission find that Joe Manchaca is not an affected person.

## **C. Whether the Groups or Associations Meet the Affected Person Requirements**

For a group or association to be granted affected person status, the group or organization must demonstrate that: 1) at least one member of the group or organization would have standing to request a contested case hearing in their own right, 2) that the interests the group or association seeks to protect are germane to

the organization's purpose, and 3) neither the interest claimed nor the relief requested requires the participation of the individual members in the case.<sup>1</sup>

### **1. Save Our Shores (SOS)**

The Executive Director has reviewed the hearing request of SOS and determined the organization fails to meet the hearing request requirements of 30 TAC §55.205(a). Phil Cone, the president of Save Our Shores (SOS) submitted a hearing request on behalf of the group. In its hearing request, SOS did not identify an individual member or members of the group that would otherwise have standing to request a hearing in their own right, nor did SOS state the interests of the group that are germane to the organization's purpose.

SOS raised the following issues in its hearing request: 1) location of the facility, 2) threat of the discharge to Dickinson Bayou, 3) impacts to aquatic life, 4) endangerment of the local water supply, and 5) air pollution. Mr. Cone, however, does not provide information regarding the interests SOS seeks to protect through the contested case hearing process. Because Save Our Shores has not met all three requirements of associational standing, it has not demonstrated that it is an affected person; therefore, the Executive Director recommends that the Commission find that Save Our Shores is not an affected person.

### **D. Whether Issues Raised Are Referable to the State Office of Administrative Hearings for a Contested Case Hearing.**

The Executive Director analyzed the issues raised in the hearing requests that it has recommended granting in accordance with the regulatory criteria and provides the following recommendations regarding whether the issues can be referred to SOAH if the Commission grants the hearing requests. Except where noted, all issues were raised during the public comment period, and none of the issues were withdrawn. All identified issues are considered disputed unless otherwise noted. The Executive Director has also listed the relevant RTC responses.

**Issue 1:** Whether the proposed discharge would adversely affect aquatic life in Dickinson Bayou. (*Responses 11 and 12*)

This is a disputed issue of fact that is relevant and material to a decision on the application. The Executive Director recommends the Commission refer this issue to SOAH if it grants any of the hearing requests.

**Issue 2:** Whether the proposed discharge would adversely impact human health. (*Response 8 and 11*)

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<sup>1</sup> 30 TAC §55.205 (regarding Requests by Group or Association).

This is a disputed issue of fact that is relevant and material to a decision on the application. The Executive Director recommends the Commission refer this issue to SOAH if it grants any of the hearing requests.

**Issue 3:** Whether the proposed discharge would impair the water quality of Dickinson Bayou. *(Response 8 and 11)*

This is a disputed issue of fact that is relevant and material to a decision on the application. The Executive Director recommends the Commission refer this issue to SOAH if it grants any of the hearing requests.

**Issue 4:** Whether, given the Applicant's compliance history, it should be granted an amendment to discharge wastewater into Dickson Bayou. *(Response 5)*

This is a disputed issue of fact that is relevant and material to a decision on the application. The Executive Director recommends the Commission refer this issue to SOAH if it grants any of the hearing requests.

**Issue 5:** Whether the testing requirements in the draft permit are sufficient. *(Response 16)*

This is a disputed issue of fact that is relevant and material to a decision on the application. The Executive Director recommends the Commission refer this issue to SOAH if it grants any of the hearing requests.

**Issue 6:** Whether the proposed discharge would contaminate the local water supply. *(Response 8)*

This is a disputed issue of fact that is relevant and material to a decision on the application. The Executive Director recommends the Commission refer this issue to SOAH if it grants any of the hearing requests.

**Issue 7:** Whether storage and treatment of waste is sufficiently maintained at facility. *(Response 13)*

This is a disputed issue of fact that is relevant and material to a decision on the application. The Executive Director recommends the Commission refer this issue to SOAH if it grants any of the hearing requests.

**Issue 8:** Whether the facility is located below sea level. *(Response 3)*

This is a disputed issue of fact, however, it is not relevant and material to a decision on the application. The Executive Director recommends the Commission not refer this issue to SOAH.

**Issue 9:** Whether the equipment at the facility is regularly maintained and updated.

This is a disputed issue of fact, however, this issue was not raised during the comment period. The Executive Director recommends that Commission not refer this issue to SOAH.

**Issue 10:** Whether the draft permit allows the Applicant to increase the volume of discharge in the future. (*Responses 2 and 22*)

This is an issue of fact, however, this issue is not relevant and material to a decision on the application. The Executive Director recommends that the Commission not refer this issue to SOAH.

**Issue 11:** Whether the facility operations will contribute to air pollution in the area. (*Response 30*)

This is a disputed issue fact. However, this issue is not relevant and material to a decision on the application. The Executive Director recommends that the Commission not refer this issue to SOAH.

**Issue 12:** Whether the draft permit should require the Applicant to reuse wastewater at the facility. (*Response 4*)

This is a disputed issue fact. However, this issue is not relevant and material to a decision on the application. The Executive Director recommends that the Commission not refer this issue to SOAH.

**Issue 13:** Whether the financial incentive to the Applicant was considered during the application review process. (*Response 29*)

This is a disputed issue fact. However, this issue is not relevant and material to a decision on the application. The Executive Director recommends that the Commission not refer this issue to SOAH.

**Issue 14:** Whether the Clean Harbors Deer Park facility is located below sea level.

This is a disputed issue fact. However, this issue is not relevant and material to a decision on the application and it was not raised during the comment period. The Executive Director recommends that the Commission not refer this issue to SOAH.

## **VII. Analysis of the Requests for Reconsideration**

Valerie Hawley, John and Mary McCracken, and Terry Singletary also submitted requests for reconsideration (RFRs). All issues raised in the RFRs were raised during the comment period and addressed by the Executive Director in the Response to Comments unless otherwise identified in the discussion below.

**Issue 1:** Terry Singletary questioned whether the TCEQ has fully considered the past violations of the Applicant during the application review process. Mr. Singletary also asserts that the TCEQ fails to acknowledge that under previous owners, the violations were so numerous that the company had to change its name from Duratherm to Clean Harbors.

**Response 1:** The issue regarding the Applicant's prior compliance history was raised and addressed in Comment 5 of the Executive Director's Response to Comments. The issue regarding the affiliated customer numbers of the previous owners was not raised during the comment period. The TCEQ reviewed the Applicant's compliance history according to the rules in 30 TAC Chapter 60. The compliance history is reviewed for the company and site for the five-year period prior to the date the permit application was received by the Executive Director. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs and early compliance.

This permit application was received after September 1, 2002, and the company and site have been rated and classified pursuant to 30 TAC Chapter 60. A company and site may have one of the following classifications and ratings: (1) a *high performer classification*, has a rating of fewer than 0.10 points and is considered to have an above-satisfactory compliance record; (2) a *satisfactory performer classification*, has a rating between 0.10 points to 55 points and is considered to generally comply with environmental regulations; or (3) an *unsatisfactory performer classification*, has a rating above 55 points and is considered to perform below minimal acceptable performance standards established by the commission.<sup>2</sup>

This facility does not have any ongoing or pending enforcement orders under the existing wastewater authorization, Permit No. WQ0004086000, issued December 19, 2013. This site has a rating of 16.00 and a classification of satisfactory. The company rating and classification, which is the average of the ratings for all sites the company owns, is also 16.00 and satisfactory. Based on this rating and classification, the Executive Director has determined that the company is operating in compliance with rules and regulations.

The Executive Director acknowledges that there are two customer numbers (CN) associated with the regulated entity (RN) for the Clean Harbors San Leon facility, RN1000890235. They are as follows: 1) CN603349820--Applicant, Clean Harbors San Leon, Inc. previously DuraTherm Asset Acquisition Corporation 2) CN600564165—PMRT, Inc., previously DuraTherm, Inc.

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<sup>2</sup> 30 TAC §60.2 (Compliance History Classification).

The Clean Harbors San Leon facility (formerly DuraTherm, Inc.), RN1000890235, was purchased by the Applicant, Clean Harbors San Leon, Inc., in 2011. The facility name was changed from DuraTherm to Clean Harbors San Leon in 2014.

The CN600564165 for PMRT, Inc. was not related to the Executive Director's review of the Applicant's compliance history because it does not correlate with the Applicant, Clean Harbors San Leon, Inc. The Applicant's, Clean Harbor San Leon, Inc. (CN603349820) compliance history report that was ran during the WOD's technical review is attached. (Attachment B). Also, the Executive Director ran a compliance history report for PMRT, Inc. (CN600564165) given the concern. (Attachment C). The compliance history report for CN600564165 does not incorporate all of the recent orders, notice of violation, environmental audits, and investigations associated with the Clean Harbors San Leon, Inc. facility.

**Issue 2:** Valerie Hawley stated that the proposed discharge would impact her and her family's use of Dickinson Bayou for recreational purposes (i.e., fishing and water activities). John and Mary Ann McCracken stated that Dickinson Bayou is dead according to previous studies. The McCrackens stated that they eat the oysters and shrimp in the bay which need the bay and estuaries to survive. Additionally, the McCrackens questioned how safe it is to wade in the water of the bayou or eat crabs out of the bayou.

The McCrackens asserted that the additional contaminants proposed in the draft permit would pose a harm to their health and the health of their grandchildren who like to play along the shore of the bayou. The McCrackens stated that there are signs that state "No Swimming" or "Don't eat the fish" in the area. Also, they asserted that there are cases of concern were people have contracted flesh eating diseases and high cancer rates along the gulf coast.

**Response 2:** This issue was raised during the public comment period and addressed in the Executive Director's Response to Comments Nos. 7, 8, 11, and 12. The TSWQS found at 30 TAC Chapter 307 state that "surface waters will not be toxic to man from ingestion of water, consumption of aquatic organisms, or contact with the skin, or to terrestrial or aquatic life." The methodology outlined in the IPs is designed to insure compliance with 30 TAC Chapter 307. Specifically, the methodology is designed to insure that no source will be allowed to discharge any wastewater that: (1) results in instream aquatic toxicity; (2) causes a violation of an applicable narrative or numerical state water quality standard; (3) results in the endangerment of a drinking water supply; or (4) results in aquatic bioaccumulation that threatens human health.

The TSWQS and IPs designate criteria for the protection of aquatic life and human health in Waters of the State. The unclassified receiving waters have minimal aquatic life use for the unnamed ditch and high aquatic life use for the unnamed tidal tributary. The designated uses for Dickinson Bayou Tidal (Segment No. 1103) are high aquatic life use and primary contact recreation. According to the TSWQS, Dickinson Bayou Tidal (Segment No. 1103) does not have an oyster waters use

designation. The water quality standards and implementation review assesses the impacts of the effluent from the point of discharge into the immediate receiving water to the classified segment, in this case Segment No. 1103, Dickinson Bayou Tidal.

Dickinson Bayou Tidal (Segment No. 1103) is currently listed on the State's inventory of impaired and threatened waters. The listing is specifically for dioxin and polychlorinated biphenyls (PCBs) in edible tissue, depressed dissolved oxygen, and elevated bacteria levels. The dioxin and PCB listing applies to the entire Segment (AUs 1103\_01, 1103\_02, 1103\_03, 1103\_04). The dissolved oxygen impairment is restricted to a reach extending from the upstream boundary of the Segment to the confluence with Gum Bayou (AUs 1103\_02, 1103\_03, 1103\_04). The bacteria listing is confined to a reach extending from Dickinson Bay to the confluence with Gum Bayou (AU 1103\_01).

This discharge occurs approximately 3.7 miles away from the boundary of the dissolved oxygen impaired reach. A bacteria TMDL (Eight Total Maximum Daily Loads for Indicator Bacteria in Dickinson Bayou and Three Tidal Tributaries Segments 1103, 1103A, 1103B, 1103C, 1104) is available for this Segment.

This permit action is not expected to contribute to any of the listed impairments for the following reasons: the facility neither manufactures nor uses dioxin; PCBs (banned by the EPA in 1979) are not typically associated with petroleum refineries and are not expected to be present in the waste stream from this facility in concentrations above the minimum analytical level (MALs); oxygen-demanding constituents in significant concentrations are not anticipated to be present in wastewater of this character; and this facility is not authorized to discharge domestic wastewater and has no other known sources of bacteria.

In accordance with 30 TAC §307.5 and the IPs for the TSWQS, an antidegradation review of the receiving waters was performed. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the unnamed tidal tributary or Dickinson Bayou Tidal, which have been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received.

TPDES permits contain technology-based effluent limits reflecting the best controls available. Where these technology-based permit limits do not protect water quality or the designated uses, additional water quality-based effluent limitations and conditions are included. State narrative and numerical water quality standards are used in conjunction with EPA criteria and other toxicity databases to determine the adequacy of technology-based permit limits and the need for additional water quality-based controls. The draft permit was developed to protect aquatic life and human health in accordance with the TSWQS and was established to be protective of human health and the environment, provided that the Applicant operates and maintains the

facility in accordance with TCEQ rules and the requirements of the draft permit. The Water Quality Division has determined that the draft permit complies with TSWQS.

The discharge of treated process wastewater via internal Outfall 101 is subject to EPA's technology-based effluent limitation guidelines promulgated in Title 40 of the Code of Federal Regulations (CFR) Part 437 – Centralized Waste Treatment Point Source Category, Subpart B – Oils Treatment and Recovery Subcategory. The discharge of treated contaminated stormwater via internal Outfall 101 is not subject to any federal effluent limitation guidelines. Daily average and daily maximum effluent limitations for oil and grease, total suspended solids, total arsenic, total cadmium, total chromium, total cobalt, total copper, total lead, total mercury, total tin, total zinc, butylbenzyl phthalate, carbazole, n-decane, bis (2-ethylhexyl) phthalate, flouranthene, and n-octadecane and daily minimum and daily maximum effluent limitations for pH have been included in the draft permit at internal Outfall 101 based on the requirements of 40 CFR §437.24.

No analytical data was provided in the application because the facility has not begun to discharge process wastewater, and screening against water quality-based effluent limitations cannot be accomplished at this time. Therefore, the draft permit includes Other Requirement No. 7, which requires Clean Harbors San Leon, Inc., to collect and submit analytical data of the San Leon effluent to the TCEQ for screening and technical review so that, if necessary, the permit may be reopened and amended to include additional effluent limitations or monitoring requirements for any discharged pollutant that could in any way contribute to contamination in the waste stream.

**Issue 3:** Valerie Hawley questioned why the TCEQ would allow this company to put additional pollutants into Dickinson Bayou.

**Response 3:** This issue was raised during the public comment period and addressed in the Executive Director's Response to Comment No. 1. Pursuant to the Texas Water Code (TWC) § 26.121, a facility cannot discharge wastewater into the surface waters of Texas without appropriate authorization. The Executive Director may take action on any permit application that meets the requirements of Title 30 of the Texas Administrative Code (TAC) § 50.133. Reasons for the commission to deny, revoke, or suspend a permit after public notice and hearing are outlined in 30 TAC § 305.66(f).

At this time, the Applicant has no known environmental violations resulting from the wastewater discharge, has made no known false statements, has no known indebtedness for fees, penalties, or taxes, and is able to ensure the waste management system will conform with the requirements set forth in the Texas Water Code and Title 30 of the Texas Administrative Code.

In accordance with 30 TAC § 307.5 and the Procedures to Implement the Texas Surface Water Quality Standards (IPs) for the Texas Surface Water Quality Standards (TSWQS), an antidegradation review of the receiving waters was performed. A Tier

1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action. Numerical and narrative criteria to protect existing uses will be maintained. A Tier 2 review has preliminarily determined that no significant degradation of water quality is expected in the unnamed tidal tributary or Dickinson Bayou Tidal, which have been identified as having high aquatic life use. Existing uses will be maintained and protected. The preliminary determination can be reexamined and may be modified if new information is received. The Executive Director has made a preliminary decision that the draft permit, if issued, meets all statutory and regulatory requirements.

**Issue 4:** Valerie Hawley asserts that once the company begins discharge operations, they will likely try to increase the amount of waste they are discharging.

**Response 4:** This issue was raised during the public comment period and addressed in the Executive Director's Response to Comment No. 22. If the Applicant decides to expand the facility's wastewater discharge beyond what is authorized in the draft permit, the Applicant must apply for a permit amendment and receive approval from the TCEQ.<sup>3</sup> Two public notices would be issued to provide opportunity for public comment on the application. All adjacent and downstream landowners would receive each notice in the mail and the notices would be published in a local newspaper.

**Issue 5:** Valerie Hawley stated that it is to the financial advantage of the Applicant to dump waste into the bayou.

**Response 5:** This issue was raised during the public comment period and addressed in the Executive Director's Response to Comment No. 29. The TCEQ's jurisdiction in a wastewater permit application is limited to the issues set out in Chapter 26 of the TWC. Accordingly, the TCEQ does not have a statutory basis to review the financial incentives or economic motives for an Applicant to apply for a wastewater permit, under TWC § 26.027. The TCEQ may not prohibit an applicant from receiving authorization if it complies with all statutory and regulatory requirements. Furthermore, the TCEQ does not consider a company's profit motive in determining whether a wastewater discharge permit should be issued.

**Issue 6:** John and Mary Ann McCracken stated that they have to breathe the air and ingest the soot and smoke from the recycling plant.

**Response 6:** This issue was raised during the public comment period and addressed in the Executive Director's Response to Comment No. 30. The TCEQ's jurisdiction in a wastewater permit application is limited to the issues set out in Chapter 26 of the TWC. Accordingly, the TCEQ's Industrial Wastewater Permitting Section does not have jurisdiction to address violations that are not related to the wastewater discharges. This facility does not have an ongoing or pending enforcement order

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<sup>3</sup> 30 TAC §305.62 (a) and (c); *see also*, CHSL, Inc. draft permit, Permit Conditions Item No. 4, page 9.

under the existing wastewater permit, Permit No. WQ0004086000, issued December 19, 2013.

The Applicant currently has three active Air New Source Permit Registrations, Registration Nos. 14291, 85676, and 87443. Please contact the Air Permits Division at (512) 239-1250 for questions regarding the Applicant's existing Air New Source Permit Registrations or the Enforcement Division at (512) 239-5100 for information regarding any ongoing or pending enforcement actions for these registrations.

**Issue 7:** John and Mary Ann McCracken object to the TCEQ's testing procedures. The McCrackens stated that they would like to know the testing company's name and contact information. What the company tests for and how often they conduct testing. They also questioned if the EPA does any testing at the site, and if so, when was the last time the EPA tested at the site.

**Response 7:** This issue was raised during the public comment period and addressed in the Executive Director's Response to Comments No. 16 and 21. TPDES permits require that all laboratory tests submitted to demonstrate compliance with the issued permit meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification, with the general following exemptions:

- a) The laboratory is an in-house laboratory and is:
  - i) periodically inspected by the TCEQ; or
  - ii) located in another state and is accredited or inspected by that state; or
  - iii) performing work for another company with a unit located in the same site; or
  - iv) performing pro bono work for a governmental agency or charitable organization.
- b) The laboratory is accredited under federal law.
- c) The data are needed for emergency-response activities, and a laboratory accredited under the Texas Laboratory Accreditation Program is not available.
- d) The laboratory supplies data for which the TCEQ does not offer accreditation.
- e) A certification statement must be signed and submitted with every application and monthly monitoring reports.

The Applicant utilizes an on-site laboratory that is periodically inspected by the TCEQ. Please contact the Laboratory Accreditation Department within the Enforcement Division at (512) 239-3754 for further information regarding the facility's laboratory accreditation status or inspections of their on-site laboratory facilities. For further information regarding the conditions under which samples are taken, please contact the Applicant at (281) 339-6406 or the TCEQ's Enforcement Division at (512) 239-5100.

The discharge of treated process wastewater via internal Outfall 101 is subject to EPA's technology-based effluent limitation guidelines in 40 CFR Part 437 – Centralized Waste Treatment Point Source Category, Subpart B – Oils Treatment and Recovery Subcategory. The discharge of treated contaminated stormwater via internal Outfall 101 is not subject to any federal effluent limitation guidelines. The draft permit contains the following effluent limitations and monitoring frequencies for treated

process wastewater and treated contaminated stormwater discharged from the facility via Outfall 101:

Effluent Characteristics	Discharge Limitations					Minimum Self-Monitoring Requirements	
	Daily Average lbs/day	Daily mg/L	Daily Maximum lbs/day	Daily mg/L	Sgl Grab mg/L	Report Daily Max Frequency	Avg and Sample Type
Flow	0.105 MGD		0.165 MGD		N/A	Estimate	Record
Oil & Grease	33.2	38.0	111	127	254	1/day	Grab
Total Suspended Solids	26.8	30.6	64.9	74.1	148	1/day	Grab
Total Arsenic	1.16	1.33	2.58	2.95	5.9	1/day	Grab
Total Cadmium	0.008930	0.0102	0.0150	0.0172	0.034	1/day	Grab
Total Chromium	0.283	0.323	0.653	0.746	1.49	1/day	Grab
Total Cobalt	16.4	18.8	49.4	56.4	112	1/day	Grab
Total Copper	0.212	0.242	0.438	0.500	1.0	1/day	Grab
Total Lead	0.140	0.160	0.306	0.350	0.7	1/day	Grab
Total Mercury	0.005660	0.006470	0.0150	0.0172	0.034	1/day	Grab
Total Tin	0.144	0.165	0.293	0.335	0.67	1/day	Grab
Total Zinc	3.94	4.50	7.23	8.26	16.5	1/day	Grab
Bis(2-ethylhexyl) phthalate	0.0884	0.101	0.188	0.215	0.43	1/day	Grab
Butylbenzyl phthalate	0.777	0.0887	0.164	0.188	0.37	2/week	Grab
Carbazole	0.241	0.276	0.523	0.598	1.19	2/week	Grab
n-Decane	0.382	0.437	0.830	0.948	1.89	2/week	Grab
Fluoranthene	0.0234	0.0268	0.0470	0.0537	0.10	2/week	Grab
n-Octadecane	0.264	0.302	0.516	0.589	1.17	2/week	Grab
Total Petroleum Hydrocarbons	Report	Report	Report	Report	N/A	1/week	Grab

The EPA does not conduct any sampling or monitoring at the site. All sampling and monitoring at the site is conducted either by the Applicant in compliance with the draft permit or TCEQ staff. Testing results for required wastewater sampling and analysis are transmitted to the EPA and TCEQ in monthly discharge monitoring reports (DMRs). A member of the public can access a facility's self-reported DMR data through the EPA's Enforcement and Compliance History Online (ECHO) website at <https://echo.epa.gov/?redirect=echo> or by filing a Public Information Request (PIR) with the TCEQ.

**Issue 8:** John and Mary Ann McCracken stated that the facility's storage is at sea level without any adequate protection for the surrounding community. John and Mary Ann McCracken stated that the Applicant has moved a lot of waste into metal containers but still have some left wrapped in plastic at the facility and broken nails

are laying all over. They stated that the Applicant is moving waste from the waste from the Deer Park facility here until that situation cools down and litigation is settled. The McCrackens questioned where the Deer Park facility is at sea level as well.

**Response 8:** This issue was raised during the public comment period and addressed in the Executive Director's Response to Comments No. 2, 3, 10 and 19. The TCEQ does not have a statutory basis to mandate that the Applicant choose an alternate location or alternate discharge route(s) or disposal method for the wastewater generated at the facility. The Applicant indicated in the current application that the facility is located within the 100-year floodplain. Federal Emergency Management Agency (FEMA) floods maps 48039C07801 and 48039C640H were used as the basis for this determination. The TCEQ confirmed this information and ensured that the FEMA maps used are current.

The Applicant is required to take certain steps to minimize the possibility of an accidental discharge of untreated wastewater or contaminated stormwater. For example, the Applicant must maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, or retention of inadequately treated wastewater.

The TCEQ's Industrial Wastewater Permitting Section does not have jurisdiction to address violations that are not related to the wastewater discharges. This facility does not have any ongoing or pending enforcement orders under the existing wastewater authorization, Permit No. WQ0004086000, issued December 19, 2013. The draft permit includes provisions that require the Applicant at all times to ensure that the facility and all of its collection, treatment, and disposal are properly operated and maintained. The Applicant is required to retain at the facility site or make readily available to a TCEQ representative process control, maintenance, and operations records for a period of three years. The Applicant has a current Industrial Hazardous Waste (IHW) permit, No. 50535, and an IHW solid waste registration, No. 34814. The Applicant is required to submit a list documenting all wastes to be received by the facility and characterizing each waste with their initial application and each subsequent renewal. Any waste vessels received at the facility are required to be documented under the IHW records. Please contact the Waste Permits Division at (512) 239-2335 for further information regarding the facility's IHW registrations, records, and or testing requirements upon waste receipt.

Discharges from the Clean Harbors Deer Park facility, authorized under Permit No. WQ0001429000, are outside the scope of the technical review for impacts from discharges from the Clean Harbors San Leon facility.

**Issue 9:** John and Mary Ann McCracken questioned why the Applicant did not reply to the comment about recycling the water. Also, they questioned where is the subsidence district and if they have been notified that a half million gallons of water will be pumped out.

**Response 9:** This issue was raised during the public comment period and addressed in the Executive Director's Response to Comment No. 4 and 9. The TCEQ's jurisdiction in a wastewater permit application is limited to the issues set out in Chapter 26 of

the TWC. Accordingly, the TCEQ does not have a statutory basis to mandate a specific treatment process, and the final design of the facility is not required as part of an industrial wastewater permit application. Regardless of the treatment process used, the permittee must meet the effluent limitations in its permit.

Additionally, the TCEQ does not have the authority to review groundwater usage. Please contact the Harris-Galveston Subsidence District at (281) 486-1105 for further information on regulations regarding groundwater usage on private property in Galveston County.

**Issue 10:** John and Mary Ann McCracken's RFR stated that there is only one way out of that plant and that is not enough for an operation that has old equipment as they do.

**Response 10:** The TCEQ's jurisdiction in a wastewater permit application is limited to the issues set out in Chapter 26 of the TWC. Accordingly, the TCEQ does not have a statutory basis to mandate the number of exits required at a treatment facility.

**Conclusion:** The Executive Director recommends denial of the RFRs.

### **VIII. Duration of the Contested Case Hearing**

If the Commission determines that this matter should be sent to SOAH for a contested case hearing, the Executive Director recommends a hearing duration of nine months from the preliminary hearing to the presentation of a proposal for decision to the Commission.

### **IX. Executive Director's Recommendation**

The Executive Director recommends the following actions by the Commission:

1. The Executive Director recommends that the Commission find that Valerie Hawley and Peter S. Donzello are affected persons under 30 TAC §55.203.
2. If referred to SOAH, first refer the matter to Alternative Dispute Resolution for a reasonable period concurrent with that referral.
3. The Executive Director recommends the Commission deny the requests for reconsideration.
4. If referred to SOAH, the Executive Director recommends referring the following issues:

Issue 1: Whether the proposed discharge would adversely impact aquatic life in Dickinson Bayou.

Issue 2: Whether the proposed discharge would adversely impact human health.

Issue 3: Whether the proposed discharge would impair the water quality of Dickinson Bayou.

Issue 4: Whether, given the Applicant's compliance history, it should be granted an amendment to discharge wastewater into Dickson Bayou.

Issue 5: Whether the testing procedures set forth in the draft permit are sufficient.

Issue 6: Whether the proposed discharge would contaminate the local water supply.

Issue 7: Whether storage and treatment of waste is sufficiently maintained at facility.

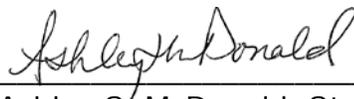
5. If referred to SOAH, the Executive Director recommends that the duration of the hearing between the preliminary hearing and the presentation of a proposal for decision before the Commission be less than **nine months**.

Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E.  
Executive Director

Robert Martinez, Director  
Environmental Law Division

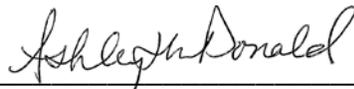


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REPRESENTING THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## CERTIFICATE OF SERVICE

I certify that on June 13, 2016, the original and seven copies of the "Executive Director's Response to Hearing Requests and Requests for Reconsideration" for Clean Harbors San Leon, Inc. WQ0004086000 were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



Ashley S. McDonald, Staff Attorney  
Environmental Law Division  
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**DOCKET NO. 2016-0666-IWD; PERMIT NO. WQ0004086000**

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PERSON(S):

See attached list.

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San Leon Mud  
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Kemah, TX 77565-0594

John T & Mary Ann Mccracken  
609 Avenue A  
San Leon, TX 77539

Aubrey Page  
2451 Pamplona Ln  
League City, TX 77573-1585

Mr Terry S Singeltary Sr  
Po Box 42  
Bacliff, TX 77518-0042

Fran Steele  
1215 23Rd St  
San Leon, TX 77539-8603

Barbara Thompson  
Po Box 9214  
Bacliff, TX 77518-9214

# **ATTACHMENT A**

# Clean Harbors San Leon, Inc.

## TPDES Permit No. WQ0004086000

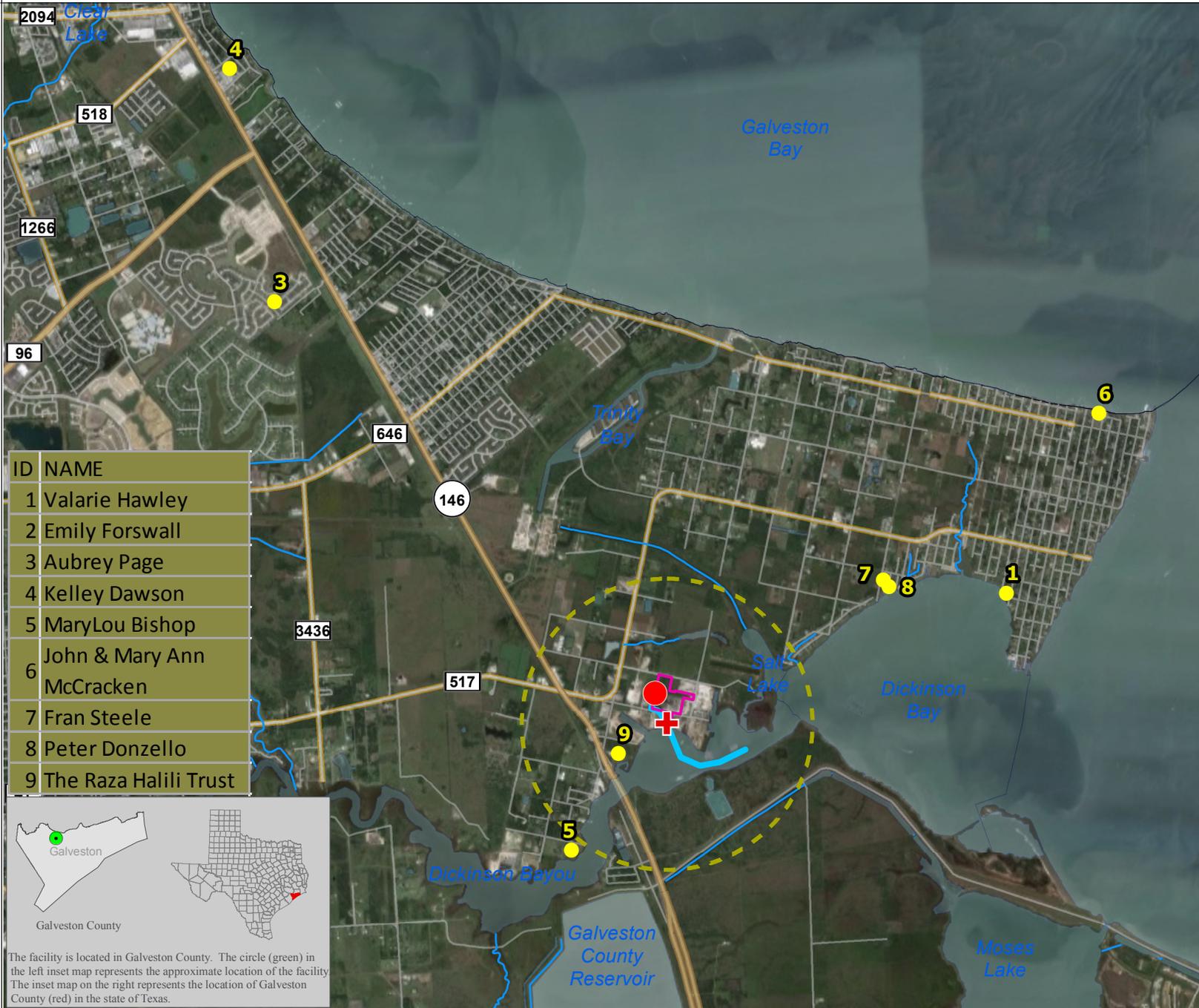
Requester #2  
Emily Forswall, Houston, TX

Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087

Date: 5/5/2016

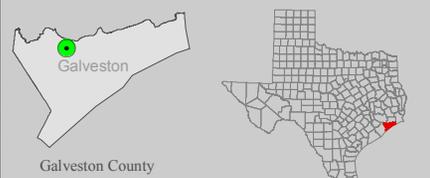


ID	NAME
1	Valarie Hawley
2	Emily Forswall
3	Aubrey Page
4	Kelley Dawson
5	MaryLou Bishop
6	John & Mary Ann McCracken
7	Fran Steele
8	Peter Donzello
9	The Raza Halili Trust

- Outfall
- + Discharge into Dickinson Bayou
- Facility Boundary
- 1 mi radial distance from discharge into Dickinson Bayou
- ~ LineEventsTable Events
- ~ Watercourse
- Waterbody
- Major Highways
- Intermediate Roads
- Ramp
- Minor Roads
- Requesters

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The background imagery of this map is from the current Environmental Systems Research Institute (ESRI) map service, as of the date of this map.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.



The facility is located in Galveston County. The circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Galveston County (red) in the state of Texas.

# **ATTACHMENT B**



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603349820, RN100890235, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN603349820, Clean Harbors San Leon, Inc. **Classification:** SATISFACTORY **Rating:** 16.00

**Regulated Entity:** RN100890235, CLEAN HARBORS SAN LEON **Classification:** SATISFACTORY **Rating:** 16.00

**Complexity Points:** 22 **Repeat Violator:** NO

**CH Group:** 11 - Waste Management (Excluding Landfills)

**Location:** 2700 AVENUE S SAN LEON, TX 77539-7285, GALVESTON COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**AIR NEW SOURCE PERMITS** REGISTRATION 14291

**AIR NEW SOURCE PERMITS** AFS NUM 4816700042

**AIR NEW SOURCE PERMITS** REGISTRATION 85676

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 34814

**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 0840217

**STORMWATER** EPA ID TX0117757

**POLLUTION PREVENTION PLANNING** ID NUMBER P03840

**USED OIL** EPA ID TXD981053770

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER GB0101M

**AIR NEW SOURCE PERMITS** REGISTRATION 87443

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXD981053770

**INDUSTRIAL AND HAZARDOUS WASTE** PERMIT 50355

**STORMWATER** PERMIT WQ0004086000

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER GB0101M

**USED OIL** REGISTRATION A86130

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

**Date Compliance History Report Prepared:** July 09, 2015

**Agency Decision Requiring Compliance History:** Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

**Component Period Selected:** May 01, 2010 to May 30, 2015

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

**Name:** TCEQ Staff Member

**Phone:** (512) 239-1000

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** 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:**

1 Effective Date: 09/29/2012 ADMINORDER 2012-0236-MLM-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)

Rqmt Prov IV-A and IV-B PERMIT

Description: Failed to prevent the acceptance of a shipment of unauthorized hazardous waste at the Facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b) and IHW Permit No. 50355, Provision Nos. IV-A and IV-B, as documented during an investigation conducted on September 29, 2011. Specifically, the Respondent accepted and processed a shipment of

corrosive hazardous waste (hazardous waste code D002) that the Facility was not authorized to accept and process.  
Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125  
30 TAC Chapter 335, SubChapter F 335.152(a)(8)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.193(e)(1)(iii)

Rqmt Prov II-C-2-h PERMIT  
V-B-3 PERMIT

Description: Failed to maintain secondary containment free of gaps and cracks, Specifically, secondary containment A for tanks PV-18 through PV-21 had a concrete coating crack about four feet long near PV-20. Secondary containment A-1 for tanks FPV-31, the containment wall indicated some erosion and the wall edge joining the concrete base had a gap of approximately two inches. Also, the secondary containment for container storage area ("CSA")-2 Roll-off area, NOR Unit 044, Permitted unit 01,

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(21)  
30 TAC Chapter 335, SubChapter F 335.152(a)(19)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1089(b)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT CC 265.1090(b)

Description: Failed to record inspections of the air emission control equipment, in violation of 30 TEX. ADMIN. CODE §§ 335.112(a)(21) and 335.152(a)(19) and 40 CFR §§ 264.1089(b) and 265.1090(b), as documented during an investigation conducted on September 29, 2011. Specifically, the Respondent did not maintain a record of the Subpart CC tank inspections for olfactory odors and visual observations.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(4)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT B 262.20

Rqmt Prov II-C-1-h PERMIT

Description: Failed to use a new manifest for rejected wastes, in violation of 30 TEX. ADMIN. CODE § 335.152(a)(4) and 40 CFR § 262.20 and IHW Permit No. 50355, Provision No. II-C-1-h, as documented during an investigation conducted on September 29, 2011. Specifically, waste manifests 005440020 JJK, 005373755 JJK, and 006442062 JJK were received and partially rejected, then sent back to generator without a new manifest

Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.12(2)  
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.51  
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.73

Description: Failed to obtain a used oil registration and EPA ID. No. prior to conducting used oil activities, in violation of 30 TEX. ADMIN. CODE § 324.12(2) and 40 CFR §§ 279.51 and 279.73, as documented during an investigation conducted on September 29, 2011.

2 Effective Date: 02/22/2014 ADMINORDER 2013-0848-IHW-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

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

Rqmt Prov Provision II.C.1.h. PERMIT

Description: Failed to update the Facility's NOR. Specifically, waste code 0004206H should be removed as a waste managed in WMU no. 067, the incorrect WMUs were indicated for waste codes 0042003H and 0917114H, and waste streams that are no longer generated were not inactivated.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.10(c)

Rqmt Prov Provision II.C.1.h. PERMIT

Description: Failed to designate the correct waste code on a hazardous waste manifest. Specifically, waste code 00863191, a Class 1 waste, was designated on hazardous waste manifest tracking no. 005228040; however, analytical results of a sample of this waste indicate it is a hazardous waste with a TCLP concentration of 6.74 mg/l for arsenic (EPA hazardous waste no. D004).

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.15

Rqmt Prov Provision III.D. PERMIT

Description: Failed to follow the inspection schedule contained in the Facility's IHW permit. Specifically, the daily permitted miscellaneous units (the two thermal desorbers) inspection was not conducted on November 14, 2011, and October 27, 2011; the daily permitted tanks inspection was not conducted on November 24, 2011; the daily permitted container storage area no. 2 inspection was not conducted on October 26, 2011; and the daily security inspection was not conducted on October 26, 2011.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.2(a)  
40 CFR Chapter 270, SubChapter I, PT 270, SubPT A 270.1(c)

Rqmt Prov Provision IV.B.1. PERMIT

Provision V.B.1. PERMIT

Provision V.C.1. PERMIT

Provision V.K. PERMIT

Description: Failed to prevent the acceptance and management of unauthorized waste at the Facility. Specifically, wastes with Texas Form Codes 119, 203, 207, 209, 305, 307, 316, 319, 389, 403, 404, 409, 491, 493, 503, 504, 512, 513, 519, 597, 602, 606, 609, and 695, which are not authorized by the Facility's permit, were received and managed at the Facility between January 1, 2010 and December 31, 2012.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)

Rqmt Prov Provision II.C.1.h. PERMIT

Description: Failed to prevent the disposal of hazardous waste at an unauthorized facility. Specifically, twelve cubic yards of hazardous waste with a Toxicity Characteristic Leaching Procedure concentration of 6.74 milligrams per liter ("mg/l") for arsenic (EPA hazardous waste no. D004) was manifested by the Respondent as a Class 1 waste and disposed on October 19, 2012 at an unauthorized facility.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.12(a)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT E 264.71(a)(1)

Rqmt Prov Provision II.C.1.h. PERMIT

Description: Failed to indicate a weight discrepancy on a hazardous waste manifest. Specifically, manifests with tracking nos. 005523979JJK, 007841125JJK, 007841126JJK, and 002517155FLE had weight discrepancies; however, the discrepancy information was not marked in the discrepancy information space (box 18.a) on these manifests.

3 Effective Date: 04/09/2015 ADMINORDER 2014-1366-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: ARS MCL 2Q2014 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2014 with a RAA of 0.012 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: ARS MCL 1Q2014 - The system violated the maximum contaminant level for arsenic during the 1st quarter of 2014 with a RAA of 0.011 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: ARS MCL 3Q2014 - The system violated the maximum contaminant level for arsenic during the 3rd quarter of 2014 with a RAA of 0.012 mg/L.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	May 24, 2010	(835924)
Item 2	June 18, 2010	(847824)
Item 3	June 30, 2010	(862229)
Item 4	August 23, 2010	(868832)
Item 5	September 24, 2010	(875702)
Item 6	October 30, 2010	(889668)
Item 7	December 22, 2010	(898037)
Item 8	January 24, 2011	(903936)
Item 9	February 23, 2011	(910826)
Item 10	March 21, 2011	(918090)
Item 11	May 23, 2011	(939793)
Item 12	June 06, 2011	(920873)
Item 13	June 22, 2011	(947209)
Item 14	July 22, 2011	(954460)
Item 15	August 22, 2011	(961047)
Item 16	October 25, 2011	(973104)
Item 17	December 20, 2011	(986073)
Item 18	January 23, 2012	(992430)

Item 19	February 24, 2012	(999740)
Item 20	March 19, 2012	(1005284)
Item 21	April 24, 2012	(1011857)
Item 22	May 14, 2012	(1018224)
Item 23	June 08, 2012	(1025954)
Item 24	July 13, 2012	(1033312)
Item 25	August 22, 2012	(1039832)
Item 26	September 18, 2012	(1048779)
Item 27	October 22, 2012	(1069574)
Item 28	November 26, 2012	(1069575)
Item 29	December 12, 2012	(1051186)
Item 30	December 21, 2012	(1069576)
Item 31	January 23, 2013	(1082849)
Item 32	February 22, 2013	(1082848)
Item 33	March 25, 2013	(1091171)
Item 34	April 19, 2013	(1097508)
Item 35	May 21, 2013	(1108534)
Item 36	June 20, 2013	(1112106)
Item 37	August 27, 2013	(1126810)
Item 38	September 20, 2013	(1131345)
Item 39	October 21, 2013	(1137096)
Item 40	November 22, 2013	(1142508)
Item 41	December 18, 2013	(1134608)
Item 42	January 21, 2014	(1155028)
Item 43	February 21, 2014	(1162338)
Item 44	March 19, 2014	(1168963)
Item 45	April 16, 2014	(1176143)
Item 46	May 12, 2014	(1166501)
Item 47	July 18, 2014	(1201206)
Item 48	August 26, 2014	(1201207)
Item 49	September 25, 2014	(1207579)
Item 50	October 07, 2014	(1213976)
Item 51	November 12, 2014	(1220222)
Item 52	December 22, 2014	(1226039)
Item 53	January 13, 2015	(1233040)
Item 54	February 17, 2015	(1244033)
Item 55	March 23, 2015	(1227567)
Item 56	April 16, 2015	(1250405)
Item 57	May 20, 2015	(1264080)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 05/31/2014 (1189266) CN603349820  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
  
- 2 Date: 07/30/2014 (1186285) CN603349820  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: ARS MCL 2Q2014 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2014 with a RAA of 0.012 mg/L.
  
- 3 Date: 04/14/2015 (1211889) CN603349820  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)  
Provision Section II.C.1.h. PERMIT  
Description: Failure to update the Notice of Registration as required.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.10(c)(1)  
 Provision Section II.C.1.h. PERMIT

Description: Failure to appropriately complete Class 1 waste manifests.  
 Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.171  
 Provision Section V.B.2. PERMIT

Description: Failure to manage hazardous waste in containers in good condition.  
 Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.172  
 Provision Section V.B.2. PERMIT

Description: Failure to manage waste in compatible containers.  
 Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.173(a)  
 Provision Section V.B.2. PERMIT

Description: Failure to close containers holding hazardous waste during storage.

## F. Environmental audits:

Notice of Intent Date: 08/30/2011 (952260)

Disclosure Date: 09/22/2011

Viol. Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter J 115.930  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(1)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(1)

Description: Documentation of submission of initial notifications of applicability of emission sources, report describing the control equipment and certifies that the control equipment meets the specification of 40 CFR 60.112b(a)(1) and 60.113(a)(1) and operational plans for those sources could not be located, including: 1) Subpart Kb certification, 2) Air emission control operating plan for sources subject to Subpart Kb.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

Description: Documentation of PBR modification or a Permit to Construct prior to installation of new waste management units, including: 1) Mix Pit, 2) Shaker Screen, 3) DAF unit could not be located.

Viol. Classification: Major

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)  
 30 TAC Chapter 115, SubChapter B 115.112(d)(1)  
 30 TAC Chapter 116, SubChapter B 116.110(a)

Description: The facility did not install emission controls on sources of VOC's that were installed following implementation of the PBR. These include: 1) Mix Pit, 2) Shaker Screen, 3) DAF unit, 4) TDU Feed Hoppers, 5) roll-off unit, 6) CSA2 Tank. Failure to obtain air quality authorization for roll-off unit.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter E 106.144  
 30 TAC Chapter 106, SubChapter K 106.261  
 30 TAC Chapter 106, SubChapter K 106.262  
 30 TAC Chapter 106, SubChapter U 106.472  
 30 TAC Chapter 106, SubChapter U 106.476  
 30 TAC Chapter 111, SubChapter A 111.143  
 30 TAC Chapter 111, SubChapter A 111.147  
 30 TAC Chapter 115, SubChapter B 115.112  
 30 TAC Chapter 115, SubChapter C 115.212  
 30 TAC Chapter 115, SubChapter C 115.214

Description: The calculations that form the basis of the Permit by rule determination are incomplete. The calculations do not include emissions produced by the shaker screen, roll-off used to collect debris, mix pit, CSA2 Tank, and feed hopper fugitive emissions. The centrifuge scrubber efficiency value used in the calculations is overstated.

Viol. Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter U 106.472

Description: Loading, unloading and transfer of catalyst and solids material resulted in visible emissions.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter C 305.42(a)  
 30 TAC Chapter 305, SubChapter C 305.45(a)  
 30 TAC Chapter 305, SubChapter C 305.50(12)(A)(ii)  
 30 TAC Chapter 335, SubChapter F 335.151(b)  
 30 TAC Chapter 335, SubChapter A 335.2(a)  
 30 TAC Chapter 335, SubChapter A 335.2(i)  
 30 TAC Chapter 335, SubChapter A 335.6(c)

30 TAC Chapter 335, SubChapter C 335.69(a)

Description: The following units were not listed in the permit application, included in the closure plan, the closure cost estimate or Attachment D" of the permit: 1) mix pit in CS-2 Container Storage Area; 2) Skid Shaker Screen and Frac Tank, 3) Screen under Tank T-200, 4) Filter Press, 5) DAF unit, 6) Roll-off unit, 7)CSA2 Tank. These units were not included in the Notice of Registration (NOR) and did not display the proper NOR number.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.14(c)  
30 TAC Chapter 335, SubChapter F 335.152(a)(1)

Description: Perimeter security and warning signs insufficient: Perimeter fence needs repairs, missing warning signs along fence, need signs in Spanish.

Viol. Classification: Minor

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT BB 264.1054  
30 TAC Chapter 335, SubChapter F 335.152(a)(1)  
30 TAC Chapter 335, SubChapter F 335.152(a)(18)

Description: Inspection documentation for miscellaneous units, process heaters, container storage unit CS-2, conservation vents on tanks ST□-17 and ST-5 thru ST-11, the Closed Vent System, the Thermal Oxidizer and perimeter fence could not be located. Inspection records for odors detected on tanks ST□-17 and ST-5 through 11 do not document repairs within required timeframes.

Viol. Classification: Minor

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.31  
30 TAC Chapter 335, SubChapter F 335.152(a)(1)

Description: Tank PV-12 is not constructed to minimize the possibility of an unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents into the soil, or surface water. There is no valve on the bottom of the tank or on the drain line before it leaves secondary containment.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.192(g)  
30 TAC Chapter 335, SubChapter F 335.152(a)(8)

Description: Initial certifications required in §270.11(d) for tank system design and installation could not be located.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.193(e)(1)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.193(f)  
30 TAC Chapter 335, SubChapter F 335.152(a)(8)

Description: The following tank systems and ancillary equipment are not equipped with adequate secondary containment: 1) Mix Tank, 2)Valves, bolted flanges, and screwed connections.

Viol. Classification: Minor

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.194(b)  
30 TAC Chapter 335, SubChapter F 335.152(a)(8)

Description: High level alarms on existing tanks are not functioning properly and need repair and/or calibration.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1084(b)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1084(c)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1086(d)  
30 TAC Chapter 335, SubChapter F 335.152(a)(19)

Description: The following units managing waste having a VOC content >500 ppm are not equipped with appropriate covers and are not vented through a closed vent system to a control device with >95% volatile organic emission control: 1) Feed Hoppers on TDU #1 and #2, 2) Mix Tank, 3) Shaker screens, 4) DAF unit. Transfers of solid hazardous waste in or out of a container to the TDU Feed Hoppers is not conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT BB 264.1065  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1087  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1089  
30 TAC Chapter 335, SubChapter F 335.152(a)(18)  
30 TAC Chapter 335, SubChapter F 335.152(a)(19)

Description: Historic documentation of inspections and maintenance could not be found. Specific items missing include: 1) semi□]annual reports to the Regional Administrator of any leaking equipment that did not receive the first attempt at repair in 5 days or was not repaired within 15 days, 2) the certification stating that the control device is designed to operate at the performance level documented by a design analysis or a performance test, and 3) documentation of the time when the control device does...

Viol. Classification: Moderate

Citation: 30 TAC Chapter 112, SubChapter A 112.8

Description: The secondary containment for the Frac Tanks used to store oil located outside the main dike is insufficient to contain the entire volume of the Frac Tank.

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.18(a)

30 TAC Chapter 335, SubChapter A 335.19(c)

30 TAC Chapter 335, SubChapter A 335.21

Description: The facility has a state variance for processed catalyst that proclaims that it is no longer considered solid waste. The variance does not reflect all catalysts currently being processed.

**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

# ATTACHMENT C



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600564165, RN100890235, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600564165, PMRT, Inc.	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	9.44
<b>Regulated Entity:</b>	RN100890235, CLEAN HARBORS SAN LEON	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	9.44
<b>Complexity Points:</b>	19	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	11 - Waste Management (Excluding Landfills)				
<b>Location:</b>	2700 AVENUE S SAN LEON, TX 77539-7285, GALVESTON COUNTY				
<b>TCEQ Region:</b>	REGION 12 - HOUSTON				

**ID Number(s):**

<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 14291	<b>AIR NEW SOURCE PERMITS</b> ACCOUNT NUMBER GB0101M
<b>AIR NEW SOURCE PERMITS</b> AFS NUM 4816700042	<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 87443
<b>AIR NEW SOURCE PERMITS</b> REGISTRATION 85676	<b>INDUSTRIAL AND HAZARDOUS WASTE</b> EPA ID TXD981053770
<b>INDUSTRIAL AND HAZARDOUS WASTE</b> SOLID WASTE REGISTRATION # (SWR) 34814	<b>INDUSTRIAL AND HAZARDOUS WASTE</b> PERMIT 50355
<b>STORMWATER</b> PERMIT WQ0004086000	<b>STORMWATER</b> EPA ID TX0117757
<b>AIR EMISSIONS INVENTORY</b> ACCOUNT NUMBER GB0101M	<b>POLLUTION PREVENTION PLANNING</b> ID NUMBER P03840
<b>USED OIL</b> REGISTRATION A86130	<b>USED OIL</b> EPA ID TXD981053770

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

**Date Compliance History Report Prepared:** June 02, 2016

**Agency Decision Requiring Compliance History:** Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

**Component Period Selected:** May 01, 2010 to May 30, 2015

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

**Name:** TCEQ Staff Member    **Phone:** (512) 239-4284

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES 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:**

- 1 Effective Date: 09/29/2012    ADMINORDER 2012-0236-MLM-E (1660 Order-Agreed Order With Denial)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)  
 Rqmt Prov IV-A and IV-B PERMIT  
 Description: Failed to prevent the acceptance of a shipment of unauthorized hazardous waste at the Facility, in violation of 30 TEX. ADMIN. CODE § 335.2(b) and IHW Permit No. 50355, Provision Nos. IV-A and IV-B, as documented during an investigation conducted on September 29, 2011. Specifically, the Respondent accepted and processed a shipment of corrosive hazardous waste (hazardous waste code D002) that the Facility was not authorized to accept and process.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125

30 TAC Chapter 335, SubChapter F 335.152(a)(8)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.193(e)(1)(iii)

Rqmt Prov II-C-2-h PERMIT

V-B-3 PERMIT

Description: Failed to maintain secondary containment free of gaps and cracks, Specifically, secondary containment A for tanks PV-18 through PV-21 had a concrete coating crack about four feet long near PV-20. Secondary containment A-1 for tanks FPV-31, the containment wall indicated some erosion and the wall edge joining the concrete base had a gap of approximately two inches. Also, the secondary containment for container storage area ("CSA")-2 Roll-off area, NOR Unit 044, Permitted unit 01,

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(21)  
30 TAC Chapter 335, SubChapter F 335.152(a)(19)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1089(b)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT CC 265.1090(b)

Description: Failed to record inspections of the air emission control equipment, in violation of 30 TEX. ADMIN. CODE §§ 335.112(a)(21) and 335.152(a)(19) and 40 CFR §§ 264.1089(b) and 265.1090(b), as documented during an investigation conducted on September 29, 2011. Specifically, the Respondent did not maintain a record of the Subpart CC tank inspections for olfactory odors and visual observations.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(4)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT B 262.20

Rqmt Prov II-C-1-h PERMIT

Description: Failed to use a new manifest for rejected wastes, in violation of 30 TEX. ADMIN. CODE § 335.152(a)(4) and 40 CFR § 262.20 and IHW Permit No. 50355, Provision No. II-C-1-h, as documented during an investigation conducted on September 29, 2011. Specifically, waste manifests 005440020 JJK, 005373755 JJK, and 006442062 JJK were received and partially rejected, then sent back to generator without a new manifest

Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.12(2)  
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.51  
40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.73

Description: Failed to obtain a used oil registration and EPA ID. No. prior to conducting used oil activities, in violation of 30 TEX. ADMIN. CODE § 324.12(2) and 40 CFR §§ 279.51 and 279.73, as documented during an investigation conducted on September 29, 2011.

2 Effective Date: 02/22/2014 ADMINORDER 2013-0848-IHW-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

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

Rqmt Prov Provision II.C.1.h. PERMIT

Description: Failed to update the Facility's NOR. Specifically, waste code 0004206H should be removed as a waste managed in WMU no. 067, the incorrect WMUs were indicated for waste codes 0042003H and 0917114H, and waste streams that are no longer generated were not inactivated.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.10(c)

Rqmt Prov Provision II.C.1.h. PERMIT

Description: Failed to designate the correct waste code on a hazardous waste manifest. Specifically, waste code 00863191, a Class 1 waste, was designated on hazardous waste manifest tracking no. 005228040; however, analytical results of a sample of this waste indicate it is a hazardous waste with a TCLP concentration of 6.74 mg/l for arsenic (EPA hazardous waste no. D004).

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.15

Rqmt Prov Provision III.D. PERMIT

Description: Failed to follow the inspection schedule contained in the Facility's IHW permit. Specifically, the daily permitted miscellaneous units (the two thermal desorbers) inspection was not conducted on November 14, 2011, and October 27, 2011; the daily permitted tanks inspection was not conducted on November 24, 2011; the daily permitted container storage area no. 2 inspection was not conducted on October 26, 2011; and the daily security inspection was not conducted on October 26, 2011.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.2(a)  
40 CFR Chapter 270, SubChapter I, PT 270, SubPT A 270.1(c)

Rqmt Prov Provision IV.B.1. PERMIT

Provision V.B.1. PERMIT

Provision V.C.1. PERMIT

Provision V.K. PERMIT

Description: Failed to prevent the acceptance and management of unauthorized waste at the Facility. Specifically, wastes with Texas Form Codes 119, 203, 207, 209, 305, 307, 316, 319, 389, 403, 404, 409, 491, 493, 503, 504, 512, 513, 519,

**Published** Compliance History Report for CN600564165, RN100890235, Rating Year 2014 which includes Compliance History (CH) components from May 01, 2010, through May 30, 2015.

597, 602, 606, 609, and 695, which are not authorized by the Facility's permit, were received and managed at the Facility between January 1, 2010 and December 31, 2012.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)

Rqmt Prov Provision II.C.1.h. PERMIT

Description: Failed to prevent the disposal of hazardous waste at an unauthorized facility. Specifically, twelve cubic yards of hazardous waste with a Toxicity Characteristic Leaching Procedure concentration of 6.74 milligrams per liter ("mg/l") for arsenic (EPA hazardous waste no. D004) was manifested by the Respondent as a Class 1 waste and disposed on October 19, 2012 at an unauthorized facility.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.12(a)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT E 264.71(a)(1)

Rqmt Prov Provision II.C.1.h. PERMIT

Description: Failed to indicate a weight discrepancy on a hazardous waste manifest. Specifically, manifests with tracking nos. 005523979JJK, 007841125JJK, 007841126JJK, and 002517155FLE had weight discrepancies; however, the discrepancy information was not marked in the discrepancy information space (box 18.a) on these manifests.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	May 24, 2010	(835924)
Item 2	June 18, 2010	(847824)
Item 3	June 30, 2010	(862229)
Item 4	August 23, 2010	(868832)
Item 5	September 24, 2010	(875702)
Item 6	October 30, 2010	(889668)
Item 7	December 22, 2010	(898037)
Item 8	January 24, 2011	(903936)
Item 9	February 23, 2011	(910826)
Item 10	March 21, 2011	(918090)
Item 11	May 23, 2011	(939793)
Item 12	June 22, 2011	(947209)
Item 13	July 22, 2011	(954460)
Item 14	August 22, 2011	(961047)
Item 15	October 25, 2011	(973104)
Item 16	December 20, 2011	(986073)
Item 17	January 23, 2012	(992430)
Item 18	February 24, 2012	(999740)
Item 19	March 19, 2012	(1005284)
Item 20	April 24, 2012	(1011857)
Item 21	May 14, 2012	(1018224)
Item 22	June 08, 2012	(1025954)
Item 23	July 13, 2012	(1033312)
Item 24	August 22, 2012	(1039832)
Item 25	September 18, 2012	(1048779)
Item 26	October 22, 2012	(1069574)
Item 27	November 26, 2012	(1069575)
Item 28	December 21, 2012	(1069576)
Item 29	January 23, 2013	(1082849)
Item 30	February 22, 2013	(1082848)
Item 31	March 25, 2013	(1091171)
Item 32	April 19, 2013	(1097508)
Item 33	May 21, 2013	(1108534)
Item 34	June 20, 2013	(1112106)
Item 35	August 27, 2013	(1126810)
Item 36	September 20, 2013	(1131345)
Item 37	October 21, 2013	(1137096)

Item 38	November 22, 2013	(1142508)
Item 39	December 18, 2013	(1134608)
Item 40	January 21, 2014	(1155028)
Item 41	February 21, 2014	(1162338)
Item 42	March 19, 2014	(1168963)
Item 43	April 16, 2014	(1176143)
Item 44	July 18, 2014	(1201206)
Item 45	August 26, 2014	(1201207)
Item 46	September 25, 2014	(1207579)
Item 47	October 07, 2014	(1213976)
Item 48	November 12, 2014	(1220222)
Item 49	December 22, 2014	(1226039)
Item 50	January 07, 2015	(1310630)
Item 51	January 13, 2015	(1233040)
Item 52	February 17, 2015	(1244033)
Item 53	April 16, 2015	(1250405)
Item 54	May 20, 2015	(1264080)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 05/31/2014 (1189266) CN600564165  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
- 2 Date: 04/14/2015 (1211889) CN600564165  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)  
Provision Section II.C.1.h. PERMIT  
Description: Failure to update the Notice of Registration as required.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 335, SubChapter A 335.10(c)(1)  
Provision Section II.C.1.h. PERMIT  
Description: Failure to appropriately complete Class 1 waste manifests.  
Self Report? NO Classification: Moderate  
Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.171  
Provision Section V.B.2. PERMIT  
Description: Failure to manage hazardous waste in containers in good condition.  
Self Report? NO Classification: Moderate  
Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.172  
Provision Section V.B.2. PERMIT  
Description: Failure to manage waste in compatible containers.  
Self Report? NO Classification: Moderate  
Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT I 264.173(a)  
Provision Section V.B.2. PERMIT  
Description: Failure to close containers holding hazardous waste during storage.

**F. Environmental audits:**

- Notice of Intent Date: 08/30/2011 (952260)  
Disclosure Date: 09/22/2011  
Viol. Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter J 115.930  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(1)  
Description: Documentation of submission of initial notifications of applicability of emission sources, report describing the control equipment and certifies that the control equipment meets the specification of 40 CFR 60.112b(a)(1) and 60.113(a)(1) and operational plans for those sources could not be located, including: 1) Subpart Kb certification, 2) Air emission control operating plan for sources subject to Subpart Kb.  
Viol. Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
Description: Documentation of PBR modification or a Permit to Construct prior to installation of new waste management units, including: 1) Mix Pit, 2) Shaker Screen, 3) DAF unit could not be located.

Viol. Classification: Major

Citation: 30 TAC Chapter 115, SubChapter B 115.112(a)(1)  
30 TAC Chapter 115, SubChapter B 115.112(d)(1)  
30 TAC Chapter 116, SubChapter B 116.110(a)

Description: The facility did not install emission controls on sources of VOC's that were installed following implementation of the PBR. These include: 1) Mix Pit, 2) Shaker Screen, 3)DAF unit, 4) TDU Feed Hoppers, 5) roll-off unit, 6)CSA2 Tank. Failure to obtain air quality authorization for roll-off unit.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter E 106.144  
30 TAC Chapter 106, SubChapter K 106.261  
30 TAC Chapter 106, SubChapter K 106.262  
30 TAC Chapter 106, SubChapter U 106.472  
30 TAC Chapter 106, SubChapter U 106.476  
30 TAC Chapter 111, SubChapter A 111.143  
30 TAC Chapter 111, SubChapter A 111.147  
30 TAC Chapter 115, SubChapter B 115.112  
30 TAC Chapter 115, SubChapter C 115.212  
30 TAC Chapter 115, SubChapter C 115.214

Description: The calculations that form the basis of the Permit by rule determination are incomplete. The calculations do not include emissions produced by the shaker screen, roll-off used to collect debris, mix pit, CSA2 Tank, and feed hopper fugitive emissions. The centrifuge scrubber efficiency value used in the calculations is overstated.

Viol. Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter U 106.472

Description: Loading, unloading and transfer of catalyst and solids material resulted in visible emissions.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter C 305.42(a)  
30 TAC Chapter 305, SubChapter C 305.45(a)  
30 TAC Chapter 305, SubChapter C 305.50(12)(A)(ii)  
30 TAC Chapter 335, SubChapter F 335.151(b)  
30 TAC Chapter 335, SubChapter A 335.2(a)  
30 TAC Chapter 335, SubChapter A 335.2(i)  
30 TAC Chapter 335, SubChapter A 335.6(c)  
30 TAC Chapter 335, SubChapter C 335.69(a)

Description: The following units were not listed in the permit application, included in the closure plan, the closure cost estimate or Attachment D" of the permit: 1) mix pit in CS-2 Container Storage Area; 2) Skid Shaker Screen and Frac Tank, 3) Screen under Tank T-200, 4) Filter Press, 5) DAF unit, 6) Roll-off unit, 7)CSA2 Tank. These units were not included in the Notice of Registration (NOR) and did not display the proper NOR number.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.14(c)  
30 TAC Chapter 335, SubChapter F 335.152(a)(1)

Description: Perimeter security and warning signs insufficient: Perimeter fence needs repairs, missing warning signs along fence, need signs in Spanish.

Viol. Classification: Minor

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT BB 264.1054  
30 TAC Chapter 335, SubChapter F 335.152(a)(1)  
30 TAC Chapter 335, SubChapter F 335.152(a)(18)

Description: Inspection documentation for miscellaneous units, process heaters, container storage unit CS-2, conservation vents on tanks ST□-17 and ST-5 thru ST-11, the Closed Vent System, the Thermal Oxidizer and perimeter fence could not be located. Inspection records for odors detected on tanks ST□-17 and ST-5 through 11 do not document repairs within required timeframes.

Viol. Classification: Minor

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT C 264.31  
30 TAC Chapter 335, SubChapter F 335.152(a)(1)

Description: Tank PV-12 is not constructed to minimize the possibility of an unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents into the soil, or surface water. There is no valve on the bottom of the tank or on the drain line before it leaves secondary containment.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.192(g)  
30 TAC Chapter 335, SubChapter F 335.152(a)(8)

Description: Initial certifications required in §270.11(d) for tank system design and installation could not be located.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.193(e)(1)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.193(f)

30 TAC Chapter 335, SubChapter F 335.152(a)(8)

Description: The following tank systems and ancillary equipment are not equipped with adequate secondary containment: 1) Mix Tank, 2) Valves, bolted flanges, and screwed connections.

Viol. Classification: Minor

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT J 264.194(b)

30 TAC Chapter 335, SubChapter F 335.152(a)(8)

Description: High level alarms on existing tanks are not functioning properly and need repair and/or calibration.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1084(b)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1084(c)

40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1086(d)

30 TAC Chapter 335, SubChapter F 335.152(a)(19)

Description: The following units managing waste having a VOC content >500 ppm are not equipped with appropriate covers and are not vented through a closed vent system to a control device with >95% volatile organic emission control: 1) Feed Hoppers on TDU #1 and #2, 2) Mix Tank, 3) Shaker screens, 4) DAF unit. Transfers of solid hazardous waste in or out of a container to the TDU Feed Hoppers is not conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere.

Viol. Classification: Moderate

Citation: 40 CFR Chapter 264, SubChapter I, PT 264, SubPT BB 264.1065

40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1087

40 CFR Chapter 264, SubChapter I, PT 264, SubPT CC 264.1089

30 TAC Chapter 335, SubChapter F 335.152(a)(18)

30 TAC Chapter 335, SubChapter F 335.152(a)(19)

Description: Historic documentation of inspections and maintenance could not be found. Specific items missing include: 1) semi-annual reports to the Regional Administrator of any leaking equipment that did not receive the first attempt at repair in 5 days or was not repaired within 15 days, 2) the certification stating that the control device is designed to operate at the performance level documented by a design analysis or a performance test, and 3) documentation of the time when the control device does...

Viol. Classification: Moderate

Citation: 30 TAC Chapter 112, SubChapter A 112.8

Description: The secondary containment for the Frac Tanks used to store oil located outside the main dike is insufficient to contain the entire volume of the Frac Tank.

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.18(a)

30 TAC Chapter 335, SubChapter A 335.19(c)

30 TAC Chapter 335, SubChapter A 335.21

Description: The facility has a state variance for processed catalyst that proclaims that it is no longer considered solid waste. The variance does not reflect all catalysts currently being processed.

#### **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