

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0158-WQ-E **TCEQ ID:** RN104951322 **CASE NO.:** 32512

RESPONDENT NAME: Broadmore Custom Homes LP

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Aurora Vista, 1.5 miles west of United States Highway 287 and south of State Highway 114, Aurora, Wise County</p> <p>TYPE OF OPERATION: Single family housing development</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 6, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Enforcement Division, Enforcement Team 2, R-13, (210) 403-4077; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Ms. Joy Williams, President, Broadmore Custom Homes LP, 7324 Bishop Court, Fort Worth, Texas 76179; Mr. Justin Pratt, Vice President, Broadmore Custom Homes LP, 7324 Bishop Court, Fort Worth, Texas 76179 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: August 11, 2006 and November 7, 2006</p> <p>Dates of NOEs Relating to this Case: August 14, 2006 and January 9, 2007 (NOE)</p> <p>Background Facts: This was a follow-up investigation. One violation was documented.</p> <p>WATER</p> <p>Failure to obtain authorization to discharge storm water associated with construction activity [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p>	<p>Total Assessed: \$1,900</p> <p>Total Deferred: \$380 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,520</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that The Respondent submitted a Notice of Intent on December 11, 2006.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	22-Jan-2007	Screening	1-Feb-2007	EPA Due	
	PCW	14-May-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Broadmore Custom Homes LP
Reg. Ent. Ref. No.	RN104951322
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	32512	No. of Violations	1	
Docket No.	2007-0158-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Ruben Soto	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

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

Notes

Total EB Amounts **Subtotal 6**
Approx. Cost of Compliance **0% Enhancement***
**Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 1-Feb-2007

Docket No. 2007-0158-WQ-E

PCW

Respondent Broadmore Custom Homes LP

Policy Revision 2 (September 2002)

Case ID No. 32512

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN104951322

Media [Statute] Water Quality

Enf. Coordinator Ruben Soto

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received one NOV with same or similar violations to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 1-Feb-2007

Docket No. 2007-0158-WQ-E

PCW

Respondent Broadmore Custom Homes LP

Policy Revision 2 (September 2002)

Case ID No. 32512

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN104951322

Media [Statute] Water Quality

Enf. Coordinator Ruben Soto

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c).

Violation Description Failed to obtain authorization to discharge storm water associated with construction activity, as documented during an investigation conducted on November 7, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 34

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

Violation Base Penalty \$2,000

Two monthly events are recommended from the date of the investigation (November 7, 2006) to the submittal of a Notice of Intent (December 11, 2006).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$1,900

This violation Final Assessed Penalty (adjusted for limits) \$1,900

Economic Benefit Worksheet

Respondent Broadmore Custom Homes LP
Case ID No. 32512
Reg. Ent. Reference No. RN104951322
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	11-Aug-2006	11-Dec-2006	0.3	\$33	n/a	\$33

Notes for DELAYED costs

The estimated cost of preparing and implementing a storm water pollution prevention plan and submittal of a Notice of Intent. Date required is the date of the initial investigation and the final date is the date the Notice of Intent was submitted.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

	2		37	
Approx. Cost of Compliance	\$2,000	TOTAL	\$33	

Compliance History

Customer/Respondent/Owner-Operator: CN603032426 BROADMORE CUSTOM HOMES LP Classification: AVERAGE Rating: 2.50
Regulated Entity: RN104951322 BROADMORE CUSTOM HOMES Classification: AVERAGE Site Rating: 2.50
AURORA VISTA
ID Number(s):
Location: 1.5 MILES WEST OF UNITED STATES Rating Date: September 01 06
HIGHWAY 287 AND SOUTH OF STATE Repeat Violator: NO
HIGHWAY 114, AURORA, WISE COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: January 31, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 31, 2002 to January 31, 2007

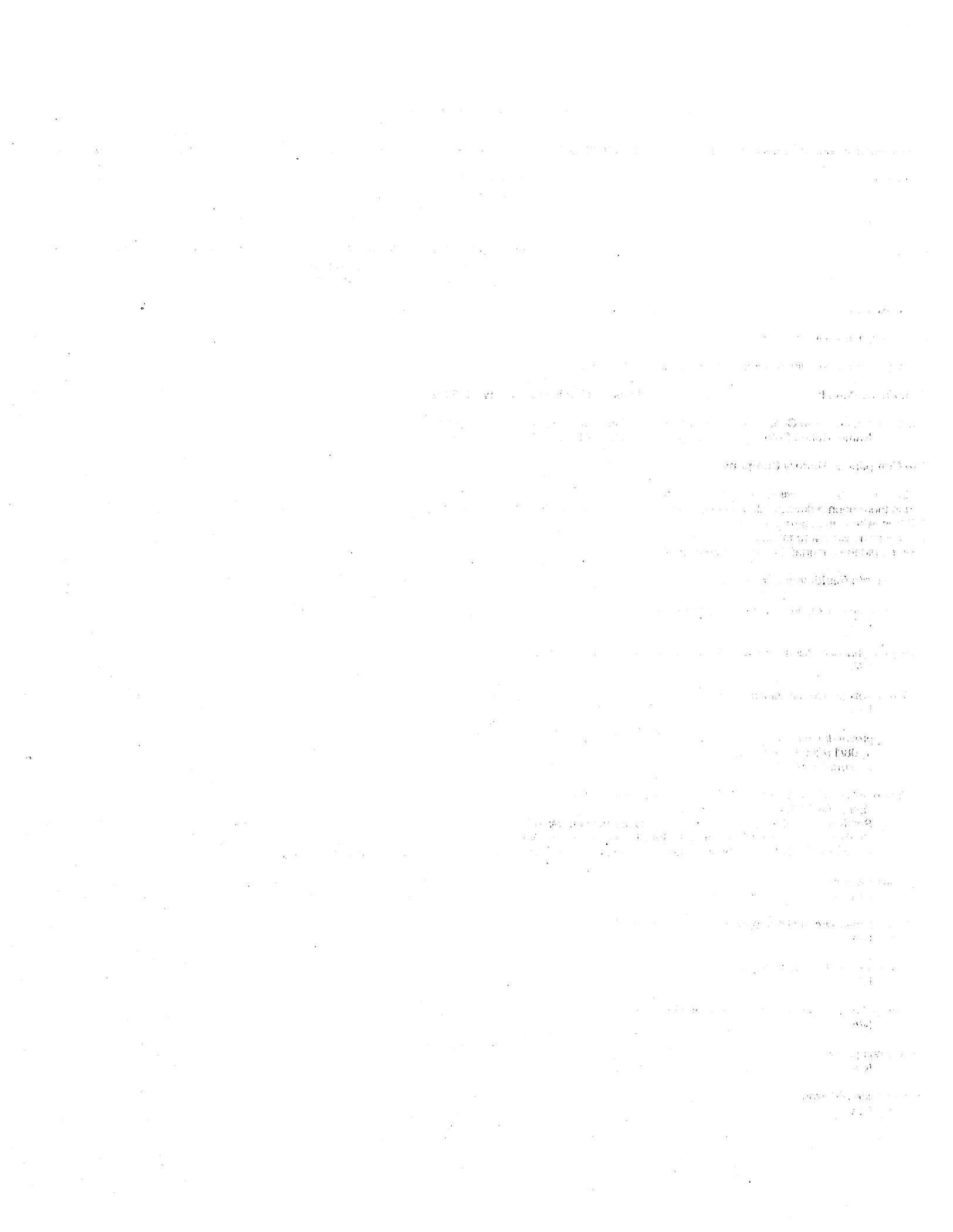
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Ruben Soto Phone: 512 239-4571

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 08/11/2006 (466374)
2 01/09/2007 (518986)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 08/14/2006 (466374)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 281, SubChapter A 281:25(a)(4)
Description: Failure to obtain authorization to discharge storm water associated with construction activity.
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BROADMORE CUSTOM HOMES LP
RN104951322**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0158-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Broadmore Custom Homes LP ("Broadmore") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Broadmore appear before the Commission and together stipulate that:

1. Broadmore owns and operates a construction site for a single family housing development located 1.5 miles west of United States Highway 287 and south of State Highway 114 in Aurora, Wise County, Texas (the "Site").
2. Broadmore has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Broadmore agree that the Commission has jurisdiction to enter this Agreed Order, and that Broadmore is subject to the Commission's jurisdiction.
4. Broadmore received notice of the violations alleged in Section II ("Allegations") on or about August 19, 2006 and January 14, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Broadmore of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand Nine Hundred Dollars (\$1,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Broadmore has paid One Thousand Five Hundred Twenty Dollars (\$1,520) of the administrative penalty and Three Hundred Eighty Dollars (\$380) is deferred contingent upon Broadmore's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Broadmore fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Broadmore to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Broadmore has not complied with one or more of the terms or conditions in this Agreed Order.
9. The Executive Director recognizes that Broadmore submitted a Notice of Intent on December 11, 2006.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator at the Site, Broadmore is alleged to have failed to obtain authorization to discharge storm water associated with construction activity, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on November 7, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Broadmore pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Broadmore's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Broadmore Custom Homes LP, Docket No. 2007-0158-WQ-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon Broadmore. Broadmore is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Broadmore in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Broadmore, or three days after the date on which the Commission mails notice of the Order to Broadmore, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdic

For the Executive Director

8/29/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Ray Williams

Signature

5-16-2007

Date

Ray Williams

Name (Printed or typed)
Authorized Representative of
Broadmore Custom Homes LP

President

Title

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

Handwritten text at the top of the page, possibly a header or title, which is mostly illegible due to fading.

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Third line of handwritten text, showing some structural elements like a colon.

Fourth line of handwritten text, appearing to be a list or series of items.

Fifth line of handwritten text, continuing the list or series.

Sixth line of handwritten text, possibly a separator or a new section.

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