EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0685-SLG-E **TCEQ ID:** RN103150629 **CASE NO.:** 29629

RESPONDENT NAME: Paul Mullin dba Paul Mullin's Septic Tank Service

ORDER TYPE:		
_X_1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	_X_SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Lightfoot Road northeast of Lufkin, Angelina County

TYPE OF OPERATION: Sludge transportation operation

SMALL BUSINESS: _X_ **Yes** ___ **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on August 6, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator:

TCEQ Enforcement Coordinator: Ms. Audra Ruble, Enforcement Division, Enforcement Team 4, R-14, (361) 825-3126; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468

Respondent: Mr. Paul Mullin, Owner, Paul Mullin's Septic Tank Service, 421 E. Laurel Avenue, Lufkin, Texas 75901

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** May 8, 2006 **Date of NOE Relating to this Case:** May 31, 2006 (NOE) **Background Facts:** This was a routine investigation. Four violations were documented. **WASTE** 1) Failed to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the waste and the (Texas) facility has written authorization by permit or registration issued by the Executive Director to receive wastes. Specifically, Mr. Mullin stated that he dumped approximately four loads (500 gallon truck) at the Site which is not authorized to receive the waste [30 TEX. ADMIN. CODE § 312.143 and TEX. WATER CODE § 26.121(a)]. 2) Failed to prominently mark the truck used in transportation of wastes with the company name, telephone number and current authorization stickers. Specifically, it was noted that the truck failed to have current registration stickers affixed to the truck (stickers on passenger and driver's side were expired) and failed to have either the transporter's name or telephone number marked on the truck [30 TEX. ADMIN. CODE § 312.144(a)]. 3) Failed to have a sight gauge on the transporter truck's tank [30 TEX. ADMIN. CODE § 312.144(d)]. 4) Failed to maintain a record of each individual collection and deposit of waste transported with the use of five-part trip tickets [30 TEX. ADMIN. CODE § 312.145(a)].	**Total Assessed:** $7,000 **Total Deferred:** $5,800 _X_ Expedited Settlement ($1,400) _X_ Financial Inability to Pay ($4,400) **SEP Conditional Offset:** $0 **Total Due to General Revenue:** $1,200 (The Respondent has paid $100; the remaining $1,100 to be paid in 11 monthly payments of $100 each) The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by Mr. Mullin and determined that Mr. Mullin is unable to pay part of the administrative penalty. **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Immediately upon the effective date of this Agreed Order: i. Cease land application of sewage sludge at the Site; and ii. Begin using five-part trip tickets, completing all information on the trip ticket pertaining to the transporter, generator, and disposal facility, making sure to distribute copies as applicable; b. Within 15 days after the effective date of this Agreed Order, remove from the Site and properly dispose of all septage waste, trash and contaminated surface soils from all affected areas; c. Within 30 days after the effective date of this Agreed Order, submit written certification as described below to demonstrate compliance with Ordering Provision a.i., a.ii., b.; d. Within 30 days after the effective date of this Agreed Order: i. Provide an adequate sight gauge for tanks on all sludge transporter trucks; and ii. Prominently mark each truck with the company name, telephone number, and the Commission assigned registration number a minimum of two inches in height on both sides of the vehicles and clearly visible at a distance of 50 feet and mark all discharge valves and ports, and tank discharge valves; e. Within 45 days after the effective date of this Agreed Order, submit written certification as described below to demonstrate compliance, including copies of corresponding trip tickets, with Ordering Provision d.i. and d.ii.; and

		f. The certifications in Ordering Provision c. and e. above shall include detailed supporting documentation including receipts, copies of all trip tickets used to document wastes transported (for at least the three previous complete calendar months), and/or other records to demonstrate compliance, and be notarized by a State of Texas Notary Public.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	05-Jun-2006				
PCW	22-Jun-2006	Screening	06-Jun-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Paul Mullin dba Paul Mullin's Septic Tank Service		
Reg. Ent. Ref. No.	RN103150629		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	29629	No. of Violations	4
Docket No.	2006-0685-SLG-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Brian Lehmkuhle
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $7,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement *Subtotals 2, 3, & 7* $0

Notes: No adjustment recommended due to average performer classification.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

Notes: The respondent does not meet the good faith criteria.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$49
Approx. Cost of Compliance	$1,450

SUM OF SUBTOTALS 1-7 Final Subtotal $7,000

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $7,000

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $7,000

DEFERRAL 20% Reduction Adjustment -$1,400

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $5,600

Screening Date 06-Jun-2006 **Docket No.** 2006-0685-SLG-E **PCW**
Respondent Paul Mullin dba Paul Mullin's Septic Tank Service *Policy Revision 2 (September 2002)*
Case ID No. 29629 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN103150629
Media [Statute] Water Quality
Enf. Coordinator Brian Lehmkuhle

Compliance History Worksheet

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

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

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

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

No

Adjustment Percentage (Subtotal 3) **0%**

>> **Compliance History *Person* Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> **Compliance History Summary**

Compliance History Notes No adjustment recommended due to average performer classification.

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

PCW

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Screening Date 06-Jun-2006 **Docket No.** 2006-0685-SLG-E

Respondent Paul Mullin dba Paul Mullin's Septic Tank Service

Case ID No. 29629

Reg. Ent. Reference No. RN103150629

Media [Statute] Water Quality

Enf. Coordinator Brian Lehmkuhle

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 312.143 and Tex. Water Code § 26.121(a)

Secondary Rule Cite(s)

Violation Description The respondent failed to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the waste and the (Texas) facility has written authorization by permit or registration issued by the Executive Director to receive wastes. Specifically, as documented during an investigation conducted on May 8, 2006, Mr. Mullin stated that he dumped approximately four loads (500 gallon truck) at the Site which is not authorized to receive the waste.

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

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

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended for depositing waste at the site prior to obtaining a valid registration, from the investigation date (May 8, 2006) through the date of screening (June 6, 2006).

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent Paul Mullin dba Paul Mullin's Septic Tank Service
Case ID No. 29629
Reg. Ent. Reference No. RN103150629
Media [Statute] Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal	$350	05-May-2006	09-May-2006	0.0	$0	$4	$4
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	This is the cost the respondent avoided to dispose of approximately 2,000 gallons of septic tank waste at a facility authorized to accept the type of waste being disposed. The estimate is based on a cost of $175 (including fuel costs) for every 1000 gallons of septic tank waste to be disposed. From the date of the initial complaint through the date of the investigation.						

Approx. Cost of Compliance $350

TOTAL $4

PCW

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Screening Date 06-Jun-2006 **Docket No.** 2006-0685-SLG-E

Respondent Paul Mullin dba Paul Mullin's Septic Tank Service

Case ID No. 29629

Reg. Ent. Reference No. RN103150629

Media [Statute] Water Quality

Enf. Coordinator Brian Lehmkuhle

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 312.144(a)

Secondary Rule Cite(s)

Violation Description The respondent failed to prominently mark the truck used in transportation of wastes with the company name, telephone number and current authorization stickers. Specifically, as documented during an investigation conducted on May 8, 2006, it was noted that the truck failed to have current registration stickers affixed to the truck (stickers on passenger and driver's side were expired) and failed to have either the transporter's name or telephone number marked on the truck.

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $11

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent Paul Mullin dba Paul Mullin's Septic Tank Service
Case ID No. 29629
Reg. Ent. Reference No. RN103150629
Media [Statute] Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	$300	08-May-2006	31-Jan-2007	0.7	$11	n/a	$11

Notes for DELAYED costs Estimated cost associated with properly marking pump truck used in transportation of wastes with the company name, telephone number, and current TCEQ registration label. From the date of the investigation through the estimated date of compliance.

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

Approx. Cost of Compliance $300

TOTAL $11

Screening Date 06-Jun-2006 **Docket No.** 2006-0685-SLG-E **PCW**

Respondent Paul Mullin dba Paul Mullin's Septic Tank Service *Policy Revision 2 (September 2002)*

Case ID No. 29629 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN103150629

Media [Statute] Water Quality

Enf. Coordinator Brian Lehmkuhle

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 312.144(d)

Secondary Rule Cite(s)

Violation Description The respondent failed to have a sight gauge on the transporter truck's tank. Specifically, as documented during an investigation conducted on May 8, 2006, no sight gauge was observed and the respondent stated that there was no sight gauge for the tank.

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Failure to provide a sight gauge could lead to improper operation and unintended discharges which could expose human health and the environment to a significant amount of pollutants.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 1

mark only one use a small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended, from the investigation date (May 8, 2006) through the date of screening (June 6, 2006).

Economic Benefit (EB) for this violation

Estimated EB Amount $15

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent Paul Mullin dba Paul Mullin's Septic Tank Service
Case ID No. 29629
Reg. Ent. Reference No. RN103150629
Media [Statute] Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$300	08-May-2006	31-Jan-2007	0.7	$1	$15	$15
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)				0.0	$0	n/a	$0

Notes for DELAYED costs Estimated cost to provide an adequate site gauge on the transporter truck's tank, from the date of the investigation through the estimated date of compliance.

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

Approx. Cost of Compliance $300

TOTAL $15

PCW

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Screening Date 06-Jun-2006 **Docket No.** 2006-0685-SLG-E

Respondent Paul Mullin dba Paul Mullin's Septic Tank Service

Case ID No. 29629

Reg. Ent. Reference No. RN103150629

Media [Statute] Water Quality

Enf. Coordinator Brian Lehmkuhle

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 312.145(a)

Secondary Rule Cite(s)

Violation Description The respondent failed to maintain a record of each individual collection and deposit of waste transported with the use of five-part trip tickets. Specifically, as documented during an investigation conducted on May 8, 2006, the respondent stated that he dumped four loads at the site but did not have any sludge transporter tickets available for review.

Base Penalty $10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 4

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $4,000

One single event per load is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $18

Statutory Limit Test

Violation Final Penalty Total $4,000

This violation Final Assessed Penalty (adjusted for limits) $4,000

Economic Benefit Worksheet

Respondent Paul Mullin dba Paul Mullin's Septic Tank Service
Case ID No. 29629
Reg. Ent. Reference No. RN103150629
Media [Statute] Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$500	08-May-2006	31-Jan-2007	0.7	$18	n/a	$18
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)				0.0	$0	n/a	$0

Notes for DELAYED costs Estimated cost associated ensuring trip ticket records are adequately prepared and maintained, from the date of the investigation through the estimated date of compliance.

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

Approx. Cost of Compliance $500

TOTAL $18

Compliance History

Customer/Respondent/Owner-Operator:	CN601686223	MULLIN, PAUL	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN103150629	PAUL MULLINS SEPTIC TANK SERVICE	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	SLUDGE	REGISTRATION	20585	
Location:	421 E LAUREL AVE, LUFKIN, ANGELINA CO		Rating Date: 9/1/2005	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	June 23, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 23, 2001 to June 23, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Brian Lehmkuhle Phone: (512) 239-4482

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 judgements, 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.)
N/A

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A

F. Environmental audits.
N/A

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

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

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

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
PAUL MULLIN DBA PAUL	§	**TEXAS COMMISSION ON**
MULLIN'S SEPTIC TANK SERVICE	§	
RN103150629	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-0685-SLG-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 Paul Mullin dba Paul Mullin's Septic Tank Service ("Mr. Mullin") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Mullin appear before the Commission and together stipulate that:

1. Mr. Mullin owns and operates a sludge transportation operation at 421 E. Laurel Avenue in Lufkin, Angelina County, Texas (the "Operation"). Mr. Mullin deposited septic tank waste on an unregistered site located on Lightfoot Road northeast of Lufkin, Angelina County (the "Site").

2. The Operation involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

3. The Commission and Mr. Mullin agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Mullin is subject to the Commission's jurisdiction.

4. Mr. Mullin received notice of the violations alleged in Section II ("Allegations") on or about June 5, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Mullin of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seven Thousand Dollars ($7,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by Mr. Mullin and determined that Mr. Mullin is unable to pay part of the administrative penalty. Therefore, Five Thousand Eight Hundred Dollars ($5,800) of the penalty

is deferred contingent upon Mr. Mullin'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 Mr. Mullin fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Mullin to pay all or part of the deferred penalty.

Mr. Mullin has paid One Hundred Dollars ($100) of the undeferred administrative penalty. The remaining amount of One Thousand One Hundred Dollars ($1,100) of the administrative penalty shall be payable in 11 monthly payments of One Hundred Dollars ($100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If Mr. Mullin fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Mullin to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Mullin to timely and satisfactorily comply with all the terms of this Agreed Order.

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 of the TCEQ and Mr. Mullin have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Mullin has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Operation, Mr. Mullin is alleged to have:

1. Failed to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the waste and the (Texas) facility has written authorization by permit or registration issued by the Executive Director to receive wastes, in violation of 30 TEX. ADMIN. CODE § 312.143 and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on May 8, 2006. Specifically, Mr. Mullin stated that he dumped approximately four loads (500 gallon truck) at the Site which is not authorized to receive the waste.

2. Failed to prominently mark the truck used in transportation of wastes with the company name, telephone number and current authorization stickers, in violation of 30 TEX. ADMIN. CODE § 312.144(a), as documented during an investigation conducted on May 8, 2006. Specifically, it was noted that the truck failed to have current registration stickers affixed to the truck (stickers on passenger and driver's side were expired) and failed to have either the transporter's name or telephone number marked on the truck.

3. Failed to have a sight gauge on the transporter truck's tank, in violation of 30 TEX. ADMIN. CODE § 312.144(d), as documented during an investigation conducted on May 8, 2006.

4. Failed to maintain a record of each individual collection and deposit of waste transported with the use of five-part trip tickets, in violation of 30 TEX. ADMIN. CODE § 312.145(a), as documented during an investigation conducted on May 8, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Mullin pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Mullin'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: Paul Mullin dba Paul Mullin's Septic Tank Service, Docket No. 2006-0685-SLG-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. It is further ordered that Mr. Mullin shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order:

      i. Cease land application of sewage sludge at the Site; and

      ii. Begin using five-part trip tickets, completing all information on the trip ticket pertaining to the transporter, generator, and disposal facility, making sure to distribute copies as applicable, in accordance with 30 TEX. ADMIN. CODE § 312.145;

b. Within 15 days after the effective date of this Agreed Order, remove from the Site and properly dispose of all septage waste, trash and contaminated surface soils from all affected areas, in accordance with 30 TEX. ADMIN. CODE § 312.143;

c. Within 30 days after the effective date of this Agreed Order, submit written certification as described below to demonstrate compliance with Ordering Provision Nos. 2.a.i., 2.a.ii., and 2.b. above;

d. Within 30 days after the effective date of this Agreed Order:

i. Provide an adequate sight gauge for tanks on all sludge transporter trucks, in accordance with 30 TEX. ADMIN. CODE § 312.144(d); and

ii. Prominently mark each truck with the company name, telephone number, and the Commission assigned registration number a minimum of two inches in height on both sides of the vehicles and clearly visible at a distance of 50 feet and mark all discharge valves and ports, and tank discharge valves, in accordance with 30 TEX. ADMIN. CODE § 312.144;

e. Within 45 days after the effective date of this Agreed Order, submit written certification as described below to demonstrate compliance, including copies of corresponding trip tickets, with Ordering Provision No. 2.d.i. and 2.d.ii. above; and

f. The certifications in Ordering Provision Nos. 2.c. and 2.e. above shall, include detailed supporting documentation including receipts, copies of all trip tickets used to document wastes transported (for at least the three previous complete calendar months), and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

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

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

with a copy to:

Manager, Waste Section
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Mullin. Mr. Mullin is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Operation.

4. If Mr. Mullin fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Mullin's failure to comply is not a violation of this Agreed Order. Mr. Mullin shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Mullin shall notify the Executive Director within seven days after Mr. Mullin becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Mullin shall be made in writing to the Executive Director. Extensions are not effective until Mr. Mullin receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Mullin in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Mullin, or three days after the date on which the Commission mails notice of the Order to Mr. Mullin, 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

_____ _____ 9/7/07
For the Executive Director 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.

_____ 5-23-07
Signature Date

Paul Mullin OWNER
Name (Printed or typed) Title
Authorized Representative of
Paul Mullin dba Paul Mullin's Septic Tank Service

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.