

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-1846-OSI-E TCEQ ID NO.: RN103544268 ENF CASE NO.: 27174

RESPONDENT NAME: RICKY D. CRAWFORD

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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: Staten Creek Ranch, 3.25 miles south of intersection of United States Highway 377 and State Highway 71, McCulloch County</p> <p>TYPE OF OPERATION: On-site sewage facilities installer</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 September 10, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Catherine M. Albrecht, Water Enforcement Section, MC R-12, (713) 767-3672 TCEQ Regional Contact: Mr. Mark Newman, San Angelo Regional Office, MC R-8, (325) 655-9479 Respondent: Mr. Ricky D. Crawford, Owner, P.O. Box 1244, Brady, Texas 76825-1244; 305 N. Bridge, Brady, Texas 76825 Respondent's Attorney: Not represented by counsel.</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 type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: October 3, 2005</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: October 21, 2005 (NOE)</p> <p>Background Facts: An EDRP was filed on April 4, 2007. The Respondent received notice of the EDRP on or about April 6, 2007. The Respondent has not filed an answer or requested a hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>OSI</p> <p>Failed to obtain an authorization to construct before beginning the construction of an OSSF [30 TEX. ADMIN. CODE § 285.61(4) and TEX. HEALTH & SAFETY CODE § 366.051(c)].</p>	<p>Total Assessed: \$2,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$2,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor <input checked="" type="checkbox"/> N/A</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor <input checked="" type="checkbox"/> N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>The Executive Director recognizes that the Respondent is no longer the OSSF installer at the site and ceased construction of the OSSF at the site on or about October 18, 2005.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES	Assigned	24-Oct-2005	Screening	31-Oct-2005	EPA Due	
	PCW	04-Apr-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ricky D. Crawford
Reg. Ent. Ref. No.	RN103544268
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	27174	No. of Violations	1
Docket No.	2005-1846-OSI-E	Order Type	1660
Media Program(s)	On-Site Sewage Disposal	Enf. Coordinator	Catherine Albrecht
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

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 **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply **Subtotal 5**

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

Notes

Economic Benefit **Subtotal 6**

Total EB Amounts	<input type="text" value="\$17"/>	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	<input type="text" value="\$500"/>	

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 **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 31-Oct-2005

Docket No. 2005-1846-OSI-E

PCW

Respondent Ricky D. Crawford

Policy Revision 2 (September 2002)

Case ID No. 27174

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103544268

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Catherine Albrecht

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 0%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes No change due to no previous compliance history.

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

Screening Date	31-Oct-2005	Docket No.	2005-1846-OSI-E	PCW
Respondent	Ricky D. Crawford			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	27174			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN103544268			
Media [Statute]	On-Site Sewage Disposal			
Enf. Coordinator	Catherine Albrecht			
Violation Number	<input type="text" value="1"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 285.61(4)"/>			
Secondary Rule Cite(s)	<input type="text" value="Texas Health & Safety Code § 366.051(c)"/>			
Violation Description	<div style="border: 1px solid black; padding: 5px;"> Failure to obtain an authorization to construct before beginning the construction of an On-Site Sewage Facility (OSSF), as documented during a record review conducted on October 3, 2005. Specifically the installer, Mr. Ricky Crawford, completed the installation of seven OSSFs and initiated the construction of an eighth OSSF located at Staten Creek Ranch before an authorization to construct was issued. </div>			

Base Penalty

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

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

The respondent failed to comply with 100% of the rule requirement.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

	daily	<input type="text"/>
	monthly	<input type="text"/>
<i>mark only one</i>	quarterly	<input type="text"/>
<i>use a small x</i>	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="X"/>

Violation Base Penalty

Eight single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Ricky D. Crawford
 Case ID No. 27174
 Reg. Ent. Reference No. RN103544268
 Media [Statute] On-Site Sewage Disposal
 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
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	\$500	03-Oct-2005	01-Jun-2006	0.7	\$17	n/a	\$17
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated amount required to obtain an Authorization to Construct before beginning the construction of an On-Site Sewage Facility (OSSF), calculated from the date of investigation to 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 \$17

Compliance History

Customer/Respondent/Owner-Operator: CN602064222 CRAWFORD, RICKY D. Classification: N/A Rating: N/A
Regulated Entity: RN103544268 CRAWFORD, RICKY D. Classification: N/A Site Rating: N/A
ID Number(s): ON SITE SEWAGE FACILITY LICENSING LICENSE OS0001145
Location: 305 North Bridge
TCEQ Region: REGION 08 - SAN ANGELO
Date Compliance History Prepared: October 28, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 28, 2000 to October 28, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Joseph Daley Phone: 239-3308

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.)

10/21/2005 (433797)

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
ENFORCEMENT ACTION
CONCERNING
RICKY D. CRAWFORD;
RN103544268

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2005-1846-OSI-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 366, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Ricky D. Crawford ("Mr. Crawford").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Crawford installs on-site sewage facilities ("OSSFs") from a business located at 305 N. Bridge, Brady, McCulloch County, Texas. Mr. Crawford installed OSSFs on Staten Creek Ranch, located 3.25 miles south of the intersection of U.S. Highway 377 and State Highway 71, McCulloch County, Texas (the "Site").
2. At the time of the violation, Mr. Crawford held OSSF Installer Certificate No. OS0001145 issued by the TCEQ on February 22, 2005, which authorizes OSSF installers to construct, install, alter, and/or repair OSSFs as defined in TEX. HEALTH & SAFETY CODE § 366.002.
3. During a record review conducted on October 3, 2005, a TCEQ San Angelo Regional Office investigator documented that Mr. Crawford failed to obtain an authorization to construct before beginning the construction of an OSSF. Specifically, Mr. Crawford completed the installation of seven OSSFs and initiated the construction of an eighth OSSF located at the Site before an authorization to construct was issued.
4. Mr. Crawford received notice of the violation on or about October 26, 2005.

5. The Executive Director recognizes that Mr. Crawford is no longer the OSSF installer at the Site and ceased construction of the OSSF at the Site on or about October 18, 2005.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Ricky D. Crawford" (the "EDPRP") in the TCEQ Chief Clerk's office on April 4, 2007.
7. By letter dated April 4, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Crawford with notice of the EDPRP. According to the return receipt "green card", Mr. Crawford received notice of the EDPRP on April 6, 2007, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Mr. Crawford received notice of the EDPRP, provided by the Executive Director. Mr. Crawford failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Crawford is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 366, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Crawford failed to obtain an authorization to construct before beginning the construction of an OSSF in violation of 30 TEX. ADMIN. CODE § 285.61(4) and TEX. HEALTH & SAFETY CODE § 366.051(c).
3. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Mr. Crawford with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 8, Mr. Crawford has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Crawford and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Crawford for violations of the Texas Water Code and the

Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of two thousand dollars (\$2,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Crawford is assessed an administrative penalty in the amount of two thousand dollars (\$2,000.00) for violations of TEX. HEALTH & SAFETY CODE ch. 366 and rules of the TCEQ. The payment of this administrative penalty and Mr. Crawford's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Ricky D. Crawford; Docket No. 2005-1846-OSI-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Mr. Crawford. Mr. Crawford is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.

4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Crawford if the Executive Director determines that Mr. Crawford has not complied with one or more of the terms or conditions in this Order.
5. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
6. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Ricky D. Crawford
DOCKET NO. 2005-1846-OSI-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

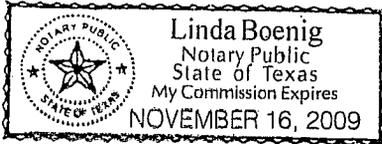
For the Commission

Before me, the undersigned authority, on this day personally appeared Dinniah M. Chahin, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 25th day of June, A.D., 2007.

Linda Boenig
Notary Signature

Notary Stamp



AFFIDAVIT OF DINNIAH M. CHAHIN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Dinniah M. Chahin. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Ricky D. Crawford” (the “EDPRP”) with the Office of the Chief Clerk on April 4, 2007.

I sent the EDPRP to Mr. Crawford at his last known address on April 4, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Mr. Crawford received notice of the EDPRP on April 6, 2007, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Crawford received notice of the EDPRP. Mr. Crawford failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Dinniah M. Chahin
Attorney
Texas Commission on Environmental Quality