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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0650-WQ-E TCEQ ID: RN104900014 CASE NO.: 33319
RESPONDENT NAME: Olney Construction Company, Inc.

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: Olney Construction Bellagio Terrace Apartments, 5038 Jacksboro Highway, Wichita Falls, Wichita County</p> <p>TYPE OF OPERATION: Construction company</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on February 23, 2007, regarding sediment spilling off a construction site onto the roadway. 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 October 1, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Libby Hogue, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1165; Mr. Steve Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. William S. Swan, President, Olney Construction Company, Inc., P.O. Box 5121, Wichita Falls, Texas 76307 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: February 23, 2007</p> <p>Date of Investigation Relating to this Case: March 14, 2007</p> <p>Date of NOV/NOE Relating to this Case: April 4, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. Two violations were documented.</p> <p>WATER</p> <p>1) Failed to properly maintain storm water structural control measures according to manufacturer's or designer's specifications [30 TEX. ADMIN. CODE § 281.25(a)(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. TXR15AT05, Part III, Section F(2)(a)(ii)].</p> <p>2) Failed to remove accumulations of sediment from the adjacent street that escaped the construction site [30 TEX. ADMIN. CODE § 281.25(a)(4), 40 CFR § 122.26(a) and TPDES Permit No. TXR15AT05, Part III, Section F(2)(a)(iv)].</p>	<p>Total Assessed: \$800</p> <p>Total Deferred: \$160 <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: \$640</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 on March 16, 2007, Olney repaired the silt fence located on the east property line along Jacksboro Highway and removed sediment which had escaped the downed silt fencing along Jacksboro Highway.</p>

Additional ID No(s): TXR15AT05



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

DATES	Assigned	9-Apr-2007	Screening	27-Apr-2007	EPA Due	
	PCW	6-Jun-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Olney Construction Company, Inc.
Reg. Ent. Ref. No.	RN104900014
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33319	No. of Violations	2
Docket No.	2007-0650-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Libby Hogue
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5% Enhancement *Subtotals 2, 3, & 7* **\$50**

Notes The Respondent received one NOV with same or similar violations within the last five years.

Culpability No 0% Enhancement *Subtotal 4* **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction *Subtotal 5* **\$250**

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

Notes The Respondent came into compliance on March 16, 2007.

Total EB Amounts \$0 **0% Enhancement*** *Subtotal 6* **\$0**
**Capped at the Total EB \$ Amount*
Approx. Cost of Compliance \$1,000

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$800**

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 **\$800**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$800**

DEFERRAL 20% Reduction *Adjustment* **-\$160**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$640**

Screening Date 27-Apr-2007	Docket No. 2007-0650-WQ-E	PCW
Respondent Olney Construction Company, Inc.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 33319	<i>PCW Revision May 25, 2007</i>	
Reg. Ent. Reference No. RN104900014		
Media [Statute] Water Quality		
Enf. Coordinator Libby Hogue		

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>)	1	5%
	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 submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

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

No	Adjustment Percentage (Subtotal 3) 0%
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>> **Compliance History Person Classification (Subtotal 7)**

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> **Compliance History Summary**

Compliance History Notes

The Respondent received one NOV with same or similar violations within the last five years.

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

Screening Date	27-Apr-2007	Docket No.	2007-0650-WQ-E	PCW
Respondent	Olney Construction Company, Inc.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	33319			<i>PCW Revision May 25, 2007</i>
Reg. Ent. Reference No.	RN104900014			
Media [Statute]	Water Quality			
Enf. Coordinator	Libby Hogue			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4), 40 Code of Federal Regulations § 122.26(a), and TPDES Permit No. TXR15AT05, Part III, Section F(2)(a)(ii)			
Violation Description	Failed to properly maintain storm water structural control measures according to manufacturer's or designer's specifications. Specifically on March 14, 2007, a TCEQ investigator documented that silt fencing located on the east property line along Jacksboro Highway was in need of repair or missing.			
		Base Penalty	\$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
Potential			x	5%

>> Programmatic Matrix

	Major	Moderate	Minor	Percent	
Falsification					
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.				0%

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$400

This violation Final Assessed Penalty (adjusted for limits) \$400

Economic Benefit Worksheet

Respondent: Olney Construction Company, Inc.
Case ID No.: 33319
Reg. Ent. Reference No.: RN104900014
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)	\$500	14-Mar-2007	16-Mar-2007	0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain structural control of the silt fencing at the construction site. Date required is the date of the investigation and the final date is the date respondent came into 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 \$0

Screening Date 27-Apr-2007 **Docket No.** 2007-0650-WQ-E **PCW**
Respondent Olney Construction Company, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 33319 *PCW Revision May 25, 2007*
Reg. Ent. Reference No. RN104900014
Media [Statute] Water Quality
Enf. Coordinator Libby Hogue

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4), 40 Code of Federal Regulations § 122.26(a) and TPDES Permit No. TXR15AT05, Part III, Section F(2)(a)(iv)

Violation Description
 Failed to remove accumulations of sediment from the adjacent street that escaped the construction site. Specifically, on March 14, 2007, a TCEQ investigator documented that sediment was observed on Jacksboro Highway as a result of the sediment escaping off the construction site.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes
 Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is 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: Olney Construction Company, Inc.
Case ID No.: 33319
Reg. Ent. Reference No.: RN104900014
Media: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$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)	\$500	14-Mar-2007	16-Mar-2007	0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove accumulated sediment from Jacksboro Highway that escaped the construction site. Date required is the date of the investigation and the final date is the date respondent came into 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 \$0

Compliance History

Customer/Respondent/Owner-Operator: CN602993495 OLNEY CONSTRUCTION COMPANY INC Classification: AVERAGE Rating: 5.00

Regulated Entity: RN104900014 OLNEY CONSTRUCTION BELLAGIO TERRACE APARTMENTS Classification: AVERAGE Site Rating: 5.00

ID Number(s): STORMWATER PERMIT TXR15AT05

Location: 5038 JACKSBORO HIGHWAY, WICHITA FALLS, WICHITA COUNTY Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: April 23, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 23, 2002 to April 23, 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? | No |
| 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.)
 N/A

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

Date:	08/15/2006	(485775)		
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)			
Rqmt Prov:	PERMIT TXR15AT05			
Description:	Failure to properly maintain storm water structural control measures according to the manufacture's or designer's specifications.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)			
Rqmt Prov:	PERMIT TXR15AT05			
Description:	Failure to develop controls to limit, to the extent practicable, off-site transport of litter, construction debris, and construction materials.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)			
Rqmt Prov:	PERMIT TXR15AT05			
Description:	Failure to install storm water structural control practices at the material (soil) stock pile.			

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

STATE OF TEXAS

County of ... State of Texas, do hereby certify that the following is a true and correct copy of the ... as the same appears from the records of this office.

Witness my hand and seal of office this ... day of ... 19...

Notary Public in and for the State of Texas

My commission expires this ... day of ... 19...

Subscribed and sworn to before me this ... day of ... 19...

Notary Public in and for the State of Texas

My commission expires this ... day of ... 19...

Subscribed and sworn to before me this ... day of ... 19...

Notary Public in and for the State of Texas

My commission expires this ... day of ... 19...

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
OLNEY CONSTRUCTION
COMPANY, INC.
RN104900014**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-0650-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 Olney Construction Company, Inc. ("Olney") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Olney appear before the Commission and together stipulate that:

1. Olney owns and operates a construction company. Olney constructed duplexes and quadraplexes at 5038 Jacksboro Highway in Wichita Falls, Wichita County, Texas (the "Site").
2. Olney has discharged other waste into or adjacent to any water in the state 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 Olney agree that the Commission has jurisdiction to enter this Agreed Order, and that Olney is subject to the Commission's jurisdiction.
4. Olney received notice of the violations alleged in Section II ("Allegations") on or about April 9, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Olney of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Hundred Dollars (\$800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Olney has paid Six Hundred Forty Dollars (\$640) of the administrative penalty and One Hundred Sixty Dollars (\$160) is deferred contingent upon Olney'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 Olney fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Olney 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 of the TCEQ and Olney have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on March 16, 2007, Olney repaired the silt fence located on the east property line along Jacksboro Highway and removed sediment which had escaped the downed silt fencing along Jacksboro Highway.
10. 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 Olney has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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 the builder of the Site, Olney is alleged to have:

1. Failed to properly maintain storm water structural control measures according to manufacturer's or designer's specifications, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), 40 CODE OF FEDERAL REGULATIONS § 122.26(a), and Texas Pollutant Discharge Elimination System Permit No. TXR15AT05, Part III, Section F(2)(a)(ii), as documented during an investigation conducted on March 14, 2007.
2. Failed to remove accumulations of sediment from the adjacent street that escaped the construction site, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), 40 CODE OF FEDERAL REGULATIONS § 122.26(a) and Texas Pollutant Discharge Elimination System Permit No. TXR15AT05, Part III, Section F(2)(a)(iv), as documented during an investigation conducted on March 14, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Olney pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Olney'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: Olney Construction Company, Inc., Docket No. 2007-0650-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 Olney. Olney 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 Olney 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 Olney, or three days after the date on which the Commission mails notice of the Order to Olney, 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



For the Executive Director

10/18/07

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 indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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



Signature

7-23-07

Date

William S. Swann

Name (Printed or typed)
Authorized Representative of
Olney Construction Company, Inc.

Pres.

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.

Second line of handwritten text, continuing the header or title information.

Third line of handwritten text, likely the beginning of the main body of the document.

Fourth line of handwritten text, continuing the main body content.

Fifth line of handwritten text, continuing the main body content.

Sixth line of handwritten text, continuing the main body content.

Handwritten signature or name on the left side of the page.

Handwritten signature or name on the right side of the page.

Handwritten signature or name on the left side of the page.

Handwritten signature or name on the right side of the page.

Seventh line of handwritten text, continuing the main body content.

Eighth line of handwritten text, continuing the main body content.

Ninth line of handwritten text, continuing the main body content.