

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0757-AIR-E **TCEQ ID:** RN105096309 **CASE NO.:** 33473  
**RESPONDENT NAME:** Lone Star Beef Processors, L.P.

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input checked="" 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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Super Dirt Compost 1, 2150 East 37th Street, San Angelo, Tom Green County</p> <p><b>TYPE OF OPERATION:</b> Composting site</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> Complaints were received on March 19, 20, and 21, 2007 in regard to rotten carcass, blood, and manure odors that were causing nuisance conditions. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> Complaints were received, but the complainants have not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 24, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Lindsey Jones, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-4930; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. Phillip McQueen, Plant Manager, Lone Star Beef Processors, L.P., 2150 East 37th Street, San Angelo, Texas 76903  Mr. John W. Cross, Chief Executive Officer, Lone Star Beef Processors, L.P., 2150 East 37th Street, San Angelo, Texas 76903  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> March 19, 20 and 21, 2007</p> <p><b>Date of Investigation Relating to this Case:</b> March 19 through 21, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 12, 2007 (NOE)</p> <p><b>Background Facts:</b> These were complaint investigations. Two violations were documented.</p> <p><b>AIR</b></p> <p>1) Failed to take necessary measures to prevent the release of odors which are in such concentration and of such duration as are or may be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property. Specifically, highly offensive odors, as determined using TCEQ Frequency, Intensity, Duration, and Offensiveness ("FIDO") protocol, were detected from the Site [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH &amp; SAFETY CODE § 382.085(a) and (b)].</p> <p>2) Failed to obtain air quality authorization to construct and operate a new facility which emits air contaminants into the air. Specifically, Lone Star began operating a composting site which did not meet the requirements of an air quality standard permit under 30 TEX. ADMIN. CODE § 332.8. Roads at the Site were not watered down, treated, or paved as required in 30 TEX. ADMIN. CODE § 332.8(d)(1) and Lone Star did not insure that there was an adequate volume of bulking material to blend with or cover material with a high odor potential (i.e., blood) as required in 30 TEX. ADMIN. CODE § 332.8(d)(2) [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH &amp; SAFETY CODE §§ 382.0518(a) and 382.085(b)].</p>	<p><b>Total Assessed:</b> \$4,200</p> <p><b>Total Deferred:</b> \$840  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,360</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent stopped the application of blood, oil, and grease at the site by March 23, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Demonstrate to the satisfaction of the Executive Director that the Site can meet the requirements in 30 TEX. ADMIN. CODE § 332.8; or</p> <p>ii. Submit an air permit application as described by 30 TEX. ADMIN. CODE § 116.110(a).</p> <p>b. If an air permit application is submitted in accordance with Ordering Provision No. 2.a.ii., then:</p> <p>i. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and</p> <p>ii. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts and/or other records to demonstrate compliance.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

<b>DATES</b>	Assigned	17-Apr-2007	Screening	11-May-2007	EPA Due	
	PCW	24-Apr-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Lone Star Beef Processors, L.P.		
Reg. Ent. Ref. No.	RN105096309		
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	33473	No. of Violations	2	
Docket No.	2007-0757-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Lindsey Jones	
Multi-Media		EC's Team	EnforcementTeam 4	
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** Subtotals 2, 3, & 7

Notes

**Culpability** Subtotal 4

Notes

**Good Faith Effort to Comply** Subtotal 5

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

Notes

**Total EB Amounts**  Subtotal 6   
 Approx. Cost of Compliance  \*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** Adjustment

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

Notes

**PAYABLE PENALTY**

Screening Date 11-May-2007

Docket No. 2007-0757-AIR-E

PCW

Respondent Lone Star Beef Processors, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33473

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN105096309

Media [Statute] Air

Enf. Coordinator Lindsey Jones

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	1	5%
	Other written NOV's	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 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%
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) 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 penalty was enhanced due to one prior similar NOV.

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

Screening Date 11-May-2007

Docket No. 2007-0757-AIR-E

PCW

Respondent Lone Star Beef Processors, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33473

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN105096309

Media [Statute] Air

Enf. Coordinator Lindsey Jones

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.4 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description Failed to take necessary measures to prevent the release of odors which are in such concentration and of such duration as are or may be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property. Specifically, highly offensive odors, as determined using TCEQ Frequency, Intensity, Duration, and Offensiveness ("FIDO") protocol, were detected from the Site during investigations on March 19, 20, and 21, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 3

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

Violation Base Penalty \$3,000

Three single events are recommended based on the March 19, 20, and 21, 2007 investigation dates.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$3,150

This violation Final Assessed Penalty (adjusted for limits) \$3,150

## Economic Benefit Worksheet

**Respondent** Lone Star Beef Processors, L.P.  
**Case ID No.** 33473  
**Reg. Ent. Reference No.** RN105096309  
**Media Air**  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$4,500	19-Mar-2007	23-Mar-2007	0.0	\$2	n/a	\$2
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to dispose of blood and paunch composting material at another facility. Date required is the date of the first complaint investigation. Final date is the 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	\$4,500	<b>TOTAL</b>	\$2
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Screening Date 11-May-2007

Docket No. 2007-0757-AIR-E

PCW

Respondent Lone Star Beef Processors, L.P.

Policy Revision 2 (September 2002)

Case ID No. 33473

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN105096309

Media [Statute] Air

Enf. Coordinator Lindsey Jones

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description

Failed to obtain air quality authorization to construct and operate a new facility which emits air contaminants into the air. Specifically, the Respondent began operating a composting site which did not meet the requirements of an air quality standard permit under 30 Tex. Admin. Code § 332.8. Roads at the Site were not watered down, treated, or paved as required in 30 Tex. Admin. Code § 332.8(d)(1) and the Respondent did not insure that there was an adequate volume of bulking material to blend with or cover material with a high odor potential (i.e., blood) as required in 30 Tex. Admin. Code § 332.8(d)(2).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

53 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the March 19, 2007 investigation date to the May 11, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$38

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

## Economic Benefit Worksheet

**Respondent** Lone Star Beef Processors, L.P.  
**Case ID No.** 33473  
**Reg. Ent. Reference No.** RN105096309  
**Media Air**  
**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
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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	\$1,000	19-Mar-2007	23-Dec-2007	0.8	\$38	n/a	\$38
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit. Date required is the date of the first complaint investigation. Final date is 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

\$1,000

TOTAL

\$38

# Compliance History

Customer/Respondent/Owner-Operator: CN602242828 Lone Star Beef Processors, L.P. Classification: AVERAGE Rating: 7.75  
Regulated Entity: RN105096309 SUPER DIRT COMPOST 1 Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT  
ID Number(s): MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 47036  
Location: 2150 E 37TH ST, SAN ANGELO, TX, 76903  
TCEQ Region: REGION 08 - SAN ANGELO  
Date Compliance History Prepared: May 11, 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: Lindsey Jones Phone: 512-239-4930

## 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? Yes
3. If Yes, who is the current owner? Lone Star Beef Processors, L.P.  
50'S Group Properties, LTD.
4. If Yes, who was/were the prior owner(s)? Danny Wilde
5. When did the change(s) in ownership occur? 01/17/2007

## 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.)  
Date: 11/09/2006 (517234)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.4  
Description: Failure to comply with the TCEQ air quality nuisance prohibition
  - 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  
LONE STAR BEEF PROCESSORS,  
L.P.  
RN105096309

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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-0757-AIR-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 Lone Star Beef Processors, L.P. ("Lone Star") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Lone Star appear before the Commission and together stipulate that:

1. Lone Star owns and operates a composting site at 2150 East 37th Street in San Angelo, Tom Green County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Lone Star agree that the Commission has jurisdiction to enter this Agreed Order, and that Lone Star is subject to the Commission's jurisdiction.
4. Lone Star received notice of the violations alleged in Section II ("Allegations") on or about April 17, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Lone Star of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Two Hundred Dollars (\$4,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Lone Star has paid Three Thousand Three Hundred Sixty Dollars (\$3,360) of the administrative



penalty and Eight Hundred Forty Dollars (\$840) is deferred contingent upon Lone Star'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 Lone Star fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Lone Star 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 Lone Star 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 Lone Star stopped the application of blood, oil, and grease at the Site by March 23, 2007.
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 Lone Star 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 owner and operator of the Site, Lone Star is alleged to have:

1. Failed to take necessary measures to prevent the release of odors which are in such concentration and of such duration as are or may be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), as documented during investigations conducted from March 19 through 21, 2007. Specifically, highly offensive odors, as determined using TCEQ Frequency, Intensity, Duration, and Offensiveness ("FIDO") protocol, were detected from the Site.
2. Failed to obtain air quality authorization to construct and operate a new facility which emits air contaminants into the air, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during investigations conducted from March 19 through 21, 2007. Specifically, Lone Star began operating a composting site which did not meet the requirements of an air quality standard permit under 30 TEX. ADMIN. CODE § 332.8. Roads at the Site were not watered down, treated, or paved as required in 30 TEX. ADMIN. CODE § 332.8(d)(1) and Lone Star did not insure that there was an adequate volume of



bulking material to blend with or cover material with a high odor potential (i.e., blood) as required in 30 TEX. ADMIN. CODE § 332.8(d)(2)

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Lone Star pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Lone Star'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: Lone Star Beef Processors, L.P., Docket No. 2007-0757-AIR-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 Lone Star shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, either:
    - i. Demonstrate to the satisfaction of the Executive Director that the Site can meet the requirements in 30 TEX. ADMIN. CODE § 332.8; or
    - ii. Submit an air permit application as described by 30 TEX. ADMIN. CODE § 116.110(a) to:

Air Permit Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - b. If an air permit application is submitted in accordance with Ordering Provision No. 2.a.ii., then:
    - i. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing; and
    - ii. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to construct and operate a source of air



emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts 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."

- c. Written certifications and demonstrations required by Ordering Provision Nos. 2.a.i. and 2.b.ii. shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager  
San Angelo Regional Office  
Texas Commission on Environmental Quality  
622 South Oakes, Ste. K  
San Angelo, Texas 76903

3. The provisions of this Agreed Order shall apply to and be binding upon Lone Star. Lone Star 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.
4. If Lone Star 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, Lone Star's failure to comply is not a violation of this Agreed Order. Lone Star shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Lone Star shall notify the Executive Director within seven days after Lone Star 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 Lone Star shall be made in writing to the Executive Director. Extensions are not effective until Lone Star receives written



approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

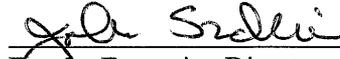
6. This Agreed Order, issued by the Commission, shall not be admissible against Lone Star in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted 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 Lone Star, or three days after the date on which the Commission mails notice of the Order to Lone Star, 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

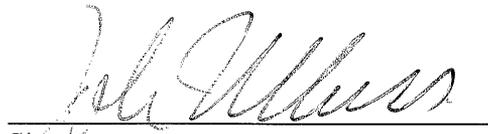
10/3/07  
Date

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

7-13-07  
Date

John W. Cross  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Lone Star Beef Processors, L.P.

CEO  
\_\_\_\_\_  
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.

