EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2

DOCKET NO.: 2006-0095-OSI-E TCEQ ID: RN103748133 CASE NO.: 28874 RESPONDENT NAME: MARK A. MOUTON

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	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	X ON-SITE SEWAGE INSTALLER
North Highway 105, Orange County TYPE OF OPERATION: On-site sewage in SMALL BUSINESS: X Yes OTHER SIGNIFICANT MATTERS: Their regarding these facilities.		itional pending enforcement actions
COMMENTS RECEIVED: The Texas Reg	ister comment period expired on August 13, 20	007. No comments were received.
CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Jacquelyn Bo Ms. Jennifer Coo TCEQ Enforcement Coordinator: TCEQ Regional Contact: Mr. Keit Respondent: Mr. Mark A. Mouton,	outwell, Litigation Division, MC 175, (512) 239 k, Litigation Division, MC 175, (512) 239-187; Ms. Lindsey Jones, Waste Enforcement Section Anderson, Beaumont Regional Office, MC R 645 Doty Road, Vidor, Texas 77662 sented by counsel on this enforcement matter.	9-5846 3 n, MC 149, (512) 239-4930

RESPONDENT NAME: MARK A. MOUTON DOCKET NO.: 2006-0095-OSI-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION PENALTY CONSIDERATIONS CORRECTIVE ACTIONS TAKEN/REQUIRED Total Assessed: \$960 Type of Investigation: Technical Requirements Complaint Total Deferred: \$0 The Respondent shall undertake the following X Routine technical requirements: ___ Enforcement Follow-up Total Paid to General Revenue: \$960 ___ Records Review 1. The Respondent shall cease performing The Respondent has paid the administrative penalty services, constructing, installing, altering, or Date of Complaints Relating to this Case: in full. repairing OSSFs until authorization has been None properly verified. Site Compliance History Classification: N/A Dates of Investigation Relating to this Case: 2. Within 15 days, submit written certification of October 26, 2005 and May 18, 2006 Person Compliance History Classification: N/A compliance with these Ordering Provisions. The certification shall include detailed supporting Date of NOV/NOE Relating to this Case: Major Source: Yes X No documentation including receipts, and/or other January 19, 2006 (NOE) and July 12, 2006 records to demonstrate compliance, be notarized (NOE) Applicable Penalty Policy: September 2002 by a State of Texas Notary Public. **Background Facts:** 3. Within 30 days, submit a completed soil evaluation for the OSSF at 345 Jones Road in Vidor, Orange County, Texas. The Respondent signed the Agreed Order on February 6, 2007. 4. Within 30 days, submit a permit application, planning materials, and application fee for the OSSFs at 13329 Highway 326 North in Kountze, On-site Sewage Hardin County, Texas and 6800 North Highway 105, Vidor, Orange County, Texas. 1. Failed to obtain documentation that the owner or the owner's agent had acquired an 5. Within 45 days, submit written certification of Authorization to Construct before beginning compliance with Ordering Provision 2. The the construction of an OSSF and failing to certification shall include detailed supporting submit planning materials and a permit documentation including receipts, and/or other application prior to beginning construction, records to demonstrate compliance, be notarized alteration or repair of an OSSF [30 Tex. by a State of Texas Notary Public. ADMIN. CODE §§ 285.5(a) and 285.61(4); and TEX. HEALTH & SAFETY CODE §§ 366.051(c) and 366.053(a)]. 2. Failed to obtain documentation that the owner or the owner's agent had acquired an Authorization to Construct before beginning the construction of an OSSF [30 Tex. ADMIN. CODE §§ 285.5(b)(1) and 285.61(4); and TEX. HEALTH & SAFETY CODE § 366.051(c)].

Penalty Calculation Worksheet (PCW) PCW Revision 2 (Suptember 2003) PCB 25-Jul-2006 Screening 28-Mar-2006 EPA Due RESPONDENT/RACILITY INFORMATION Respondent Mark A. Mouton Reg. Ent. Ref. No. RN103749133 Region TO-Beaumont Reg. Ent. Ref. No. RN103749133 Region Regio						_			<u>:</u>
DATES Assigned 20-Mar-2008 Screening 28-Mar-2006 EPA Due				lculation	Works	he	et (PCW)		
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Facility/Site Region 10-Beaumont									
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Deferral not offered for non-expedited settlement.

\$960

Notes

PAYABLE PENALTY

Screening Date 28-Mar-2006

Docket No. 2006-0095-OSI-E

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

Respondent Mark A. Mouton

Case ID No. 28874

Reg. Ent. Reference No. RN103748133

Media [Statute] On-Site Sewage Disposal

>> Compliance History Site Enhancement (Subtotal 2)

Enf. Coordinator Brent Hurta

Compliance History Worksheet

		nter 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%
NOVS	Other written NOVs	4	8%
 	Any agreed final enforcement orders containing a denial of liability		
	(number of orders meeting criteria)	1 1	20%
Orders _.	Any adjudicated final enforcement orders, agreed final enforcement ord 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	ers .0	0%
Judgments and	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)	ng 0	0%
Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a den of liability, of this state or the federal government		0%
Convictions	Any criminal convictions of this state or the federal government (numbe of counts)	r 0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
	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%
Audits	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%
		e Enter Yes or No	
-	Environmental management systems in place for one year or more	No ,	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Otner	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 Perd	entage (Sul	ototal 2)
peat Violator	(Subtotal 3)		
N/A	Adjustment Perd	entage (Sul	ototal 3)
mpliance His	story <i>Person</i> Classification (Subtotal 7)		
N/A	Adjustment Perd	entage (Sul	ototal 7)
mpliance His	story Summary		
Compliance listory Notes	Enhancement due to four prior NOVs without same or similar violation	s and an Agree	d Order.
•	Total Adjustment Percentage (Su	uhtotale 2	2 8 71

Screening Da	28-Mar-2006 Du	ocket No. 2006-0095-OSI-E	PCW
	t Mark A. Mouton		Policy Revision 2 (September 2002)
Case ID N			PCW Revision May 19, 2005
Reg. Ent. Reference N	RN103748133		
[1988] - 아이지프스님 아이 왕으로 가는 아이들 아이를 보고 있다면 하다 그 없는데 아이	On-Site Sewage Disposal		
Enf. Coordinate		•	
Violation Numb			
Primary Rule Cite	·	ode §§ 285.5(a) and 285.61(4)	
Secondary Rule Cite	Tex. Health & Safety (Code §§ 366.051(c) and 366.053(<u>a) </u>
Violation Description	acquired an Authorization to C of an on-site sewage facility materials and a permit app alteration or repair of an OSS conducted on October 26, 20 Mouton, began the installation North, Kountze, Hardin Co	ation that the owner, or owner's ag Construct before beginning the co y ("OSSF") and failure to submit p plication prior to beginning constru SF, as documented during an inve 005. Specifically the installer, Mr. n of OSSFs located at 13329 High unty, Texas and 345 Jones Road e Authorizations to Construct were	nstruction Janning Juction, estigation Mark A. hway 326 , Vidor,
		Ba	se Penalty \$2,500
>> Environmental, F	operty and Human Health	Matrix	
OR Releas Act Poten	Harm Major Moderate Minor	Percent	
>> Programmatic M	trix		•
Falsificati	Section (of a section of the first of the section o	Percent 10%]
Matrix Notes	100% of the rule requirem	nent was not met.	
		Adjustment	-\$2,250
		Base Penalt	y Subtotal \$250
Violation Events			
Number of Vio	tion Events 2	•	
mark only o use a sma	Agent Pig Tigark Agent	Violation Bas	se Penalty \$500
	Two single events are recommen	ided one for each OSSF.	
Economic Benefi	(EB) for this violation	Statutory Limit 1	est
Estimated	EB Amount \$24	Violation Final Per	nalty Total \$640
	This violation Fir	nal Assessed Penalty (adjusted	for limits) \$640

	E	onomic B	enefit Wor	kshe	et		erachi a cerigio e
Respondent Case ID No. Reg. Ent. Reference No. Media [Statute]	Mark A. Mouto 28874 RN103748133	n	i ingalah dikamanak di di kapan dibunya	San Andrik Saksa		Percent	Years of
Violation No.		je Disposai			() () ()	Interest	Depreciation
						5.0	15
	Item	Date	Final	Yrs	Interest	Onetime	EB (
ltem Description	Cost No commas or \$	Required	Date	a. S. H. Come	Saved	Costs	Amount
Delayed Costs							
Equipment	i varigas i sagaruna I	ng narta sa ang gapawang kayan	1	0.0	\$01	\$0	\$0
Buildings			1	0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land			l	0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Permit Costs		20-Oct-2004		2.0	\$15	n/a	\$15
Permit Costs	\$150	19-Sep-2005	01-Nov-2006	1.1	\$8	n/a	\$8
Notes for DELAYED costs	Estimated cost to submit a permit application and planning material and verify proof of a permit prior to the installation of an OSSF, calculated from the day construction commenced to the estimated date of compliance.						
Avoided Costs	ΔΝΝΙ	IALIZE (1) avoido	d costs before ent	arina ita	m leveent for one	time avoided co	efe\
Avoided Costs Disposal	BELLEVIS SEED NOW!	PALIEL [1] avoide	Costs perore em	0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0 \$0	\$0
Supplies/equipment				0.0	\$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			,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	F.C	TOTAL	\$24

Screening Date 2	28-Mar - 2006	Docket No.	2006-0095-OSI-E		PCW
Respondent N		•		Policy Revision	2 (September 2002)
Case ID No. 2				PCW Re	evision May 19, 2005
Reg. Ent. Reference No. F					
Media [Statute]	-	isposal			
Enf. Coordinator E Violation Number	Brent Hurta 2				
Primary Rule Cite(s)		Admin. Code §§ 285.5	(b)(1) and 285.61(4)	1	
Secondary Rule Cite(s)		x. Health & Safety Code			
• • • • • • • • • • • • • • • • • • • •	-				
Violation Description	acquired an Autho of an on-site s investigation cond	documentation that the prization to Construct beforewage facility ("OSSF"), ducted on May 18, 2006, egan the installation of a	ore beginning the cor as documented during Specifically the insta	nstruction ng an aller, Mr.	
		dor, Orange County, Tex Construct was is:	as before an Authoriz		
	•		Bas	e Penalty	\$2,500
>> Environmental, Prop	erty and Huma	an Health Matrix			
	Harm		Protection C Control State Control State Control State Control State Control State State Control State State Control State State Control State S		
Release Actual	Major Moderate	Minor			
Potential			Percent		
>> Programmatic Matrix	X Strategy				
Falsification	Major Moderate	Minor		•	
	<u> </u>		Percent 10%		
Matrix Notes	100% of the ru	ıle requirement was not	met.		
			Adjustment	-\$2,250	
			Base Penalty	Subtotal	\$250
Violation Events					
Number of Violation	n Events 1				
	daily				
mark only one	monthly quarterly	<u>-</u>	Violation Bas	e Penalty	\$250
	semiannual			• • • • • • • • • • • • • • • • • • •	,
, Si	annual X				
				•	
	One single	event is recommended.			
Economic Benefit (E	B) for this viol	ation	Statutory Limit T	est	
Estimated EB	Amount \$5	5	Violation Final Pena	alty Total	\$320
		olation Final Assessed			

Respondent Case ID No. Reg. Ent. Reference No.	Mark A. Mouto 28874		enefit Wo	rkshe	et		
Media [Statute] Violation No.		ge Disposal				Percent Interest	Years of Depreciation
		The Allegan Commence			<u>L</u>	5.0	15
	Item	Date	Final	Yrs	Interest	Onetime	EB
Item Description	Cost	Required	Date		Saved	Costs	Amount
Description	No commas or \$	nata is Basan kiba		er ang e	randa Sinda Lit	paren alama 4 (2)	ditwamathianin
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	ļ			0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0 æ	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	\$(
Permit Costs		14-May-2006	01-Feb-2007	0.7	\$5	n/a	\$5
Other (as needed)				0.0	\$0	n/a	\$0
	II Estimated cos	st to verity broc					
Notes for DELAYED costs			ion commence				alculated from
Notes for DELAYED costs Avoided Costs	the	e day construct		d to the	estimated date	e of compliand	osts)
	the	e day construct	ion commence	tering ite	estimated date	e of compliand -time avoided c	osts)
Avoided Costs Disposal Personnel	the	e day construct	ion commence	tering ite	m (except for one	of compliance -time avoided co \$0 \$0	posts) \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	the	e day construct	ion commence	tering ite	m (except for one \$0 \$0 \$0 \$0	e of compliance	osts) \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	the	e day construct	ion commence	tering ite 0.0 0.0 0.0 0.0	m (except for one \$0 \$0 \$0 \$0 \$0 \$0	e of compliance	osts) \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	the	e day construct	ion commence	tering iter 0.0 0.0 0.0 0.0 0.0	m (except for one \$0 \$0 \$0 \$0 \$0 \$0	e of compliance	sosts) \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	the	e day construct	ion commence	tering iter 0.0 0.0 0.0 0.0 0.0 0.0	m (except for one \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	e of compliance -time avoided co \$0 \$0 \$0 \$0 \$0 \$0	sosts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	the	e day construct	ion commence	tering iter 0.0 0.0 0.0 0.0 0.0	m (except for one \$0 \$0 \$0 \$0 \$0 \$0	e of compliance	sosts) \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	the	e day construct	ion commence	tering iter 0.0 0.0 0.0 0.0 0.0 0.0	m (except for one \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	e of compliance -time avoided co \$0 \$0 \$0 \$0 \$0 \$0	sosts) \$0 \$0 \$0 \$0 \$0 \$0 \$0

o

Compliance History

Customer/Respondent/Owner-Operator:

CN602263618

MOUTON, MARK A

Classification:

Rating:

OS0005735

Regulated Entity:

RN103748133

MOUTON, MARK A

Classification:

Site Rating:

ID Number(s):

ON SITE SEWAGE FACILITY LICENSING

LICENSE

Location:

6795 N HWY 105, VIDOR, ORANGE COUNTY

TCEQ Region:

REGION 10 - BEAUMONT

Date Compliance History Prepared:

March 28, 2006

Agency Decision Requiring Compliance History:

Enforcement

Compliance Period:

March 28, 2001 to March 28, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:

Brent Hurta

Phone:

512-239-6589

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?

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:

Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 09/30/2005

ADMINORDER 2005-0022-OSI-E

Classification: Major

Citation:

30 TAC Chapter 285, SubChapter F 285.61(4) 5B THC Chapter 366, SubChapter A 366.051(c)

Description: Failure by Mr. Mark Mouton to obtain proof of a permit and approved plan before beginning construction of an on-site sewage disposal system owned by another person. This system, a Jet model #750, serial # 3031YO, was installed at the property owned by Tri-Con, Inc., located at 11707 Highway 69, Warren,

Texas.

Classification: Major2

Citation:

30 TAC Chapter 285, SubChapter F 285.61(4)

5B THC Chapter 366, SubChapter A 366.051(c)

Description: Failure by Mr. Mark Mouton to obtain proof of a permit and approved plan before beginning construction of an on-site sewage disposal system owned by another person. This system, a Jet model #500, serial #3018YT, was installed at the property owned by Mr. Wes Eastham, located at Route 3 Box 422 F, Buna, Texas.

Any criminal convictions of the state of Texas and the federal government.

C. Chronic excessive emissions events.

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

01/04/2005

(345971)

12/13/2004 3 02/22/2005 (343674)(371360)

4 03/16/2006

5 03/16/2006

(458947)(459412)

6 11/22/2004

(341707)

06/23/2005

(397265)

07/18/2005

(400336)

10/06/2005

(432417)

10 01/19/2006

(451986)

11 08/01/2005

(402374)

Written notices of violations (NOV). (CCEDS Inv. Track. No.) Date: 07/18/2005

(400336)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 285, SubChapter D 285.33(d)(2)(E)

Description:

The sprayfield did not provide the required coverage of 8572 square feet. The sprayfield

was 751 square feet short.

Date: 11/22/2004

(341707)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 285, SubChapter D 285.33(d)(2)(E)

Description:

Failure by the installer to achieve the minimum required surface application area while

maintaining a 20 feet setback distance to the property line.

Date: 01/04/2005

(402374)

Self Report? NO

Classification: Minor

Citation:

30 TAC Chapter 285, SubChapter A 285.5(a)[G]

Description:

Failure to submit a design which included all structures served by an OSSF.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 285, SubChapter D 285.32(a)(2)

Description:

Failure to maintain a water-tight pipe from the building to the pretreatment tank.

Date: 08/01/2005 Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 285, SubChapter D 285.32(b)(1)(C)(ii)

Description:

Failure to install a series of tanks with the piping level or having fall throughout the tank

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 285, SubChapter I 285.91(10)

Description:

Failure to meet the required setback distance from a private water well to a surface

application sprayfield.

Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

Voluntary on-site compliance assessment dates.

Participation in a voluntary pollution reduction program.

Early compliance.

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	·
CONCERNING	§	TEXAS COMMISSION ON
MARK A. MOUTON;	§	
RN103748133	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2006-0095-OSI-E

I. JURISDICTION AND STIPULATIONS

At its	_ agenda, the Texas Commission on Environmental Quality
("Commission" or "TCEQ") consider	red this agreement of the parties, resolving an enforcement
action regarding Mark A. Mouton ("N	Ar. Mouton") under the authority of TEX. WATER CODE ch. 7
and TEX. HEALTH & SAFETY CODE ch.	366. The Executive Director of the TCEQ, represented by the
Litigation Division, and Mr. Mouton	appear before the Commission and together stipulate that:

- 1. Mr. Mouton installed OSSFs at 13329 Highway 326 North in Kountze, Hardin County, Texas, 345 Jones Road in Vidor, Orange County, Texas, and 6800 North Highway 105, Vidor, Orange County, Texas (the "Sites"). Mr. Mouton holds and maintains OSSF Installer Certificate No. OS0005735 issued by the TCEQ on August 20, 2004, which authorizes OSSF installers to construct, install, alter, and/or repair OSFFs defined in Tex. Health & Safety Code § 366.002.
- 2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013, because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 366 and the TCEQ rules.
- 3. The Commission and Mr. Mouton agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Mouton is subject to the Commission's jurisdiction.
- 4. Mr. Mouton received notice of the violations alleged in Section II ("Allegations") paragraph 1 on or about January 24, 2006. Mr. Mouton received notice of the violation in paragraph 2 on or about July 17, 2006.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Mouton of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

Mr. Mouton Docket No. 2006-0095-OSI-E Page 2

- 6. An administrative penalty in the amount of nine hundred sixty dollars (\$960.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Mouton has paid nine hundred sixty dollars (\$960.00) of the administrative 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 Mr. Mouton 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. Mouton 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

Mr. Mouton is alleged to have violated:

- 1. 30 Tex. Admin. Code §§ 285.5(a) and 285.61(4); and Tex. Health & Safety Code, §§ 366.051(c) and 366.053(a), by failing to obtain documentation that the owner or the owner's agent had acquired an Authorization to Construct before beginning the construction of an OSSF and failing to submit planning materials and a permit application prior to beginning construction, alteration or repair of an OSSF. Specifically, Mr. Mouton, began the installation of an OSSF located at 13329 Highway 326 North, Kountze, Hardin County, Texas and at 345 Jones Road, Vidor, Orange County, Texas before an Authorization to Construct was issued.
- 2.. 30 Tex. Admin. Code §§ 285.5(b)(1) and 285.61(4); and Tex. Health & Safety Code, § 366.051(c), by failing to obtain documentation that the owner or the owner's agent had acquired an Authorization to Construct before beginning the construction of an OSSF. Specifically, Mr. Mouton, began the installation of an OSSF located at 6800 North Highway 105, Vidor, Orange County, Texas before an Authorization to Construct was issued.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Mouton pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Mouton'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 considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Mark A. Mouton, Docket No. 2006-0095-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. Mr. Mouton shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease performing services, constructing, installing, altering, or repairing OSSFs until authorization has been properly verified in accordance with the requirements of 30 Tex. ADMIN. CODE ch. 285, Subchapter F.
 - b. Within 15 days after the effective date of the Commission Order, submit written certification of compliance with Ordering Provision 2.a. 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."

Mr. Mouton Docket No. 2006-0095-OSI-E Page 4

The certification shall be submitted to:

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

with a copy to:

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

- c. Within 30 days after the effective date of the Commission Order:
 - i. Submit a completed soil evaluation for the OSSF at 345 Jones Road in Vidor, Orange County, Texas in accordance with 30 Tex. ADMIN. CODE § 285.30(b) and Tex. Health & Safety Code § 366.053 to the addresses in Ordering Provision 2.b.; and
 - ii. Submit a permit application, planning materials, and application fee for the OSSFs at 13329 Highway 326 North in Kountze, Hardin County, Texas and 6800 North Highway 105, Vidor, Orange County, Texas in accordance with 30 Tex. ADMIN. Code § 285.5(a) and Tex. Health & Safety Code § 366.053 to the addresses in Ordering Provision 2.b.
 - d. Within 45 days after the effective date of the Commission Order, submit written certification of compliance with Ordering Provision 2.c. 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

Mark A. Mouton Docket No. 2006-0095-OSI-E Page 5

submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Mr. Keith Anderson, 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. Mouton.
- 4. If Mr. Mouton 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. Mouton's failure to comply is not a violation of this Agreed Order. Mr. Mouton shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Mouton shall notify the Executive Director within seven days after Mr. Mouton 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. Mouton shall be made in writing to the Executive Director. Extensions are not effective until Mr. Mouton 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. Mouton 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

Mark A. Mouton Docket No. 2006-0095-OSI-E Page 6

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) and Tex. Gov't Code § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Mouton, or three days after the date on which the Commission mails notice of the Order to Mr. Mouton, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Mark A. Mouton Docket No. 2006-0095-OSI-E Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	8/9/07 Date
I, the undersigned, have read and understand the attach authorized to agree to the attached Agreed Order on behal signature, and I do agree to the terms and conditions specthe TCEQ, in accepting payment for the penalty amount, is	fof the entity. fany, indicated below my sified therein. further acknowledge that
 Laiso understand that my failure to comply with the Ordering failure to timely pay the penalty amount, may result in A negative impact on my compliance history; Greater scrutiny of any permit applications submit Referral of this case to the Attorney General's additional penalties, and/or attorney fees, or to a confinence of the Automatic referral to the Attorney General's Office me; and TCEQ seeking other relief as authorized by law. In addition, any falsification of any compliance document 	n; tted by me; office for contempt, injunctive relief, offection agency; ons against me of any future enforcement actions against
Mark A Monton Signature	2-6-07. Date
Mark A. Mowwy Name (Printed or typed) Authorized Representative of Mark A. Mouton	îitle