

**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**

<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 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 checked="" type="checkbox"/> ON-SITE SEWAGE INSTALLER
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 13329 Highway 326 North, Hardin County; 345 Jones Road, Orange County; 6800 North Highway 105, Orange County</p> <p><b>TYPE OF OPERATION:</b> On-site sewage installer</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding these facilities.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 13, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846     Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  TCEQ Enforcement Coordinator: Ms. Lindsey Jones, Waste Enforcement Section, MC 149, (512) 239-4930  TCEQ Regional Contact: Mr. Keith Anderson, Beaumont Regional Office, MC R-10, (409) 898-3838  Respondent: Mr. Mark A. Mouton, 645 Doty Road, Vidor, Texas 77662  Respondent's Attorney: 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></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> October 26, 2005 and May 18, 2006</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 19, 2006 (NOE) and July 12, 2006 (NOE)</p> <p><b>Background Facts:</b></p> <p>The Respondent signed the Agreed Order on February 6, 2007.</p> <p><b>On-site Sewage</b></p> <p>1. 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 and failing to submit planning materials and a permit application prior to beginning construction, alteration or repair of an OSSF [30 TEX. ADMIN. CODE §§ 285.5(a) and 285.61(4); and TEX. HEALTH &amp; SAFETY CODE §§ 366.051(c) and 366.053(a)].</p> <p>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 &amp; SAFETY CODE § 366.051(c)].</p>	<p><b>Total Assessed:</b> \$960</p> <p><b>Total Deferred:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$960</p> <p>The Respondent has paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification:</b> N/A</p> <p><b>Person Compliance History Classification:</b> N/A</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>Technical Requirements</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. The Respondent shall cease performing services, constructing, installing, altering, or repairing OSSFs until authorization has been properly verified.</li> <li>2. Within 15 days, submit written certification of compliance with these Ordering Provisions. 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.</li> <li>3. Within 30 days, submit a completed soil evaluation for the OSSF at 345 Jones Road in Vidor, Orange County, Texas.</li> <li>4. Within 30 days, 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.</li> <li>5. Within 45 days, submit written certification of compliance with Ordering Provision 2. 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.</li> </ol>



# Penalty Calculation Worksheet (PCW)

<b>DATES</b>	<b>Assigned</b>	20-Mar-2006			
	<b>PCW</b>	25-Jul-2006	<b>Screening</b>	28-Mar-2006	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Mark A. Mouton				
<b>Reg. Ent. Ref. No.</b>	RN103748133				
<b>Facility/Site Region</b>	10-Beaumont	<	<b>Major/Minor Source</b>	Minor Source	<

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	28874		<b>No. of Violations</b>	2	
<b>Docket No.</b>	2006-0095-OSI-E		<b>Order Type</b>	1660	<
<b>Media Program(s)</b>	On-Site Sewage Disposal	<	<b>Enf. Coordinator</b>	Brent Hurta	
<b>Multi-Media</b>			<b>EC's Team</b>	Enforcement Team 1	<
<b>Admin. Penalty \$ Limit Minimum</b>	\$0		<b>Maximum</b>	\$2,500	

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$750**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 28% Enhancement **Subtotals 2, 3, & 7** **\$210**

**Notes** Enhancement due to four prior NOVs without same or similar violations and an Agreed Order.

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

**Notes** The Respondent does not meet the culpability criteria.

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

Before NOV    NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with a small x)

**Notes** The Respondent does not meet good faith criteria.

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

Total EB Amounts **\$29** \*Capped at the Total EB \$ Amount

Approx. Cost of Compliance **\$450**

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$960**

**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** **\$960**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$960**

**DEFERRAL** 0% Reduction **Adjustment** **\$0**

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

**Notes** Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$960**

Screening Date 28-Mar-2006

Docket No. 2006-0095-OSI-E

PCW

Respondent Mark A. Mouton

Policy Revision 2 (September 2002)

Case ID No. 28874

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103748133

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Brent Hurta

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Other	<i>Please Enter Yes or No</i>		
	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)** 28%

>> Repeat Violator (Subtotal 3)

N/A

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

>> Compliance History Person Classification (Subtotal 7)

N/A

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

>> Compliance History Summary

Compliance History Notes

Enhancement due to four prior NOVs without same or similar violations and an Agreed Order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 28%

Screening Date 28-Mar-2006

Docket No. 2006-0095-OSI-E

PCW

Respondent Mark A. Mouton

Policy Revision 2 (September 2002)

Case ID No. 28874

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103748133

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Brent Hurta

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 285.5(a) and 285.61(4)

Secondary Rule Cite(s) Tex. Health & Safety Code §§ 366.051(c) and 366.053(a)

Violation Description

Failure to obtain documentation that the owner, or owner's agent had acquired an Authorization to Construct before beginning the construction of an on-site sewage facility ("OSSF") and failure to submit planning materials and a permit application prior to beginning construction, alteration or repair of an OSSF, as documented during an investigation conducted on October 26, 2005. Specifically the installer, Mr. Mark A. Mouton, began the installation of OSSFs located at 13329 Highway 326 North, Kountze, Hardin County, Texas and 345 Jones Road, Vidor, Orange County, Texas before Authorizations to Construct were issued.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

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

Adjustment -\$2,250

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$500

Two single events are recommended one for each OSSF.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$640

This violation Final Assessed Penalty (adjusted for limits) \$640

## Economic Benefit Worksheet

**Respondent** Mark A. Mouton  
**Case ID No.** 28874  
**Reg. Ent. Reference No.** RN103748133  
**Media [Statute]** On-Site Sewage Disposal  
**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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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
Permit Costs				0.0	\$0	n/a	\$0
Permit Costs	\$150	20-Oct-2004	01-Nov-2006	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							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$300

**TOTAL** \$24

Screening Date 28-Mar-2006

Docket No. 2006-0095-OSI-E

PCW

Respondent Mark A. Mouton

Policy Revision 2 (September 2002)

Case ID No. 28874

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103748133

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Brent Hurta

Violation Number

2

Primary Rule Cite(s)

30 Tex. Admin. Code §§ 285.5(b)(1) and 285.61(4)

Secondary Rule Cite(s)

Tex. Health & Safety Code §§ 366.051(c)

Violation Description

Failure to obtain documentation that the owner, or owner's agent had acquired an Authorization to Construct before beginning the construction of an on-site sewage facility ("OSSF"), as documented during an investigation conducted on May 18, 2006. Specifically the installer, Mr. Mark A. Mouton, began the installation of an OSSF located at 6800 North Highway 105, Vidor, Orange County, Texas before an Authorization to Construct was issued.

Base Penalty

\$2,500

>> Environmental, Property and Human Health Matrix

		Harm			
		Major	Moderate	Minor	
OR	Release Actual				Percent
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	X			Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment

-\$2,250

Base Penalty Subtotal

\$250

Violation Events

Number of Violation Events

1

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty

\$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$5

Violation Final Penalty Total

\$320

This violation Final Assessed Penalty (adjusted for limits)

\$320

## Economic Benefit Worksheet

**Respondent:** Mark A. Mouton  
**Case ID No.:** 28874  
**Reg. Ent. Reference No.:** RN103748133  
**Media [Statute]:** On-Site Sewage Disposal  
**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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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	\$150	14-May-2006	01-Feb-2007	0.7	\$5	n/a	\$5
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs:** Estimated cost to 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	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 \$150

TOTAL \$5



# Compliance History

Customer/Respondent/Owner-Operator: CN602263618 MOUTON, MARK A Classification: Rating:  
Regulated Entity: RN103748133 MOUTON, MARK A Classification: Site Rating:  
ID Number(s): ON SITE SEWAGE FACILITY LICENSING LICENSE OS0005735  
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? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

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

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: Major<sup>2</sup>

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.

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. (CEEDS Inv. Track. No.)

- 1 01/04/2005 (345971)
- 2 12/13/2004 (343674)
- 3 02/22/2005 (371360)
- 4 03/16/2006 (458947)
- 5 03/16/2006 (459412)
- 6 11/22/2004 (341707)
- 7 06/23/2005 (397265)
- 8 07/18/2005 (400336)
- 9 10/06/2005 (432417)
- 10 01/19/2006 (451986)
- 11 08/01/2005 (402374)

E. Written notices of violations (NOV). (CEEDS 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 (345971)  
 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 (402374)  
 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 system.  
 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.

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  
MARK A. MOUTON;  
RN103748133

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
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") considered this agreement of the parties, resolving an enforcement action regarding Mark A. Mouton ("Mr. 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.

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."

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

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

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.

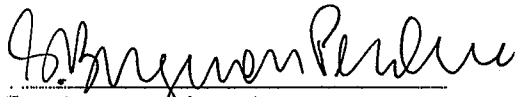


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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

.....  
 For the Commission



For the Executive Director

8/9/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Mark A. Mouton

Signature

2-6-07

Date

Mark A. Mouton

Name (Printed or typed)

Title

Authorized Representative of

Mark A. Mouton