

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1036-WQ-E **TCEQ ID:** RN105222772 **CASE NO.:** 34060

RESPONDENT NAME: Lindsey Contractors, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Cox Property, located at the southeast corner of the intersection of Ranch to Market Road 2631 and Cox-Gavlik Lane, north of Barksdale, Real County</p> <p>TYPE OF OPERATION: Road construction site</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 15, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Russell Lindsey, Vice President, Lindsey Contractors, Inc., P.O. Box 20307, Waco, Texas 76702 Mr. Claude Lindsey, President, Lindsey Contractors, Inc., P.O. Box 20307, Waco, Texas 76702 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 7, 2007</p> <p>Date of NOE Relating to this Case: June 7, 2007 (NOE)</p> <p>Background Facts: This was a routine scheduled investigation for compliance with the water quality program. Two significant program violations were observed.</p> <p>WATER</p> <p>1) Failure to prevent the discharge of asphalt emulsion into or adjacent to water in the state and to immediately abate and contain a spill or discharge. Specifically, samples were collected in the northern runoff pathway, approximately 15 feet from the western bank of Bullhead Creek, and in the southern runoff pathway, approximately five feet from the western bank of Bullhead Creek. Analysis of these samples indicated total petroleum hydrocarbon levels of 12,000 and 5,400 milligrams per kilogram [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 327.5(a)].</p> <p>2) Failure to provide notification to the Commission of a reportable discharge or spill within 24 hours of discovery of the discharge. Specifically, notification provided by the Respondent dated May 4, 2007 indicated that the discharge occurred on March 6, 2007 [30 TEX. ADMIN. CODE § 327.3(b)].</p>	<p>Total Assessed: \$6,000</p> <p>Total Deferred: \$1,200 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,800</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this agreed order, submit a spill incident report describing the details of the spill and supporting the adequacy of the response action; and</p> <p>b) Within 15 days after completion of the response action, submit written certification and include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. a.</p>

Additional ID No(s): None



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

DATES	Assigned	11-Jun-2007	Screening	29-Jun-2007	EPA Due	
	PCW	29-Jun-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Lindsey Contractors, Inc.
Reg. Ent. Ref. No.	RN10522272
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34060	No. of Violations	2	
Docket No.	2007-1036-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Michael Meyer	
Multi-Media		EC's Team	Enforcement Team 7	
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

Subtotal 6

Total EB Amounts *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance 0% Enhancement*

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 29-Jun-2007

Docket No. 2007-1036-WQ-E

PCW

Respondent Lindsey Contractors, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34060

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN105222772

Media [Statute] Water Quality

Enf. Coordinator Michael Meyer

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

Adjustment Percentage (Subtotal 2) 0%

>> 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

There are no NOV's or orders during the previous five years.

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

Screening Date 29-Jun-2007 **Docket No.** 2007-1036-WQ-E **PCW**
Respondent Lindsey Contractors, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 34060 *PCW Revision May 25, 2007*

Reg. Ent. Reference No. RN105222772

Media [Statute] Water Quality

Enf. Coordinator Michael Meyer

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input checked="" type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Lindsey Contractors, Inc.
Case ID No. 34060
Reg. Ent. Reference No. RN105222772
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$10,000	6-Mar-2007	29-Feb-2008	1.0	\$493	n/a	\$493
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$250	6-Mar-2007	29-Feb-2008	1.0	\$12	n/a	\$12

Notes for DELAYED costs

Estimated cost to prepare and submit a spill incident report and the estimated cost to complete the response action necessary to remediate the contaminated area. The Date Required is the date the incident occurred and the Final Date is the estimated compliance date.

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

\$10,250

TOTAL

\$505

Screening Date 29-Jun-2007 **Docket No.** 2007-1036-WQ-E **PCW**
Respondent Lindsey Contractors, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 34060 *PCW Revision May 25, 2007*

Reg. Ent. Reference No. RN105222772
Media [Statute] Water Quality
Enf. Coordinator Michael Meyer

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Lindsey Contractors, Inc.
Case ID No. 34060
Reg. Ent. Reference No. RN105222772
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$20	6-Mar-2007	7-Mar-2007	0.0	\$0	\$20	\$20

Notes for AVOIDED costs

Estimated cost of providing notification to the TCEQ regional office. The Date Required is the date the spill occurred and the Final Date is 24 hours after becoming aware of the spill.

Approx. Cost of Compliance

\$20

TOTAL

\$20

Compliance History

Customer/Respondent/Owner-Operator:	CN600418461	Lindsey Contractors, Inc.	Classification: AVERAGE	Rating: 2.50
Regulated Entity:	RN105222772	COX PROPERTY	Classification:	Site Rating:
ID Number(s):				
Location:	Southeast corner of the intersection of RM 2631 and Cox-Gavlik Ln, Barksdale			
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	June 26, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 26, 2002 to June 26, 2007			

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

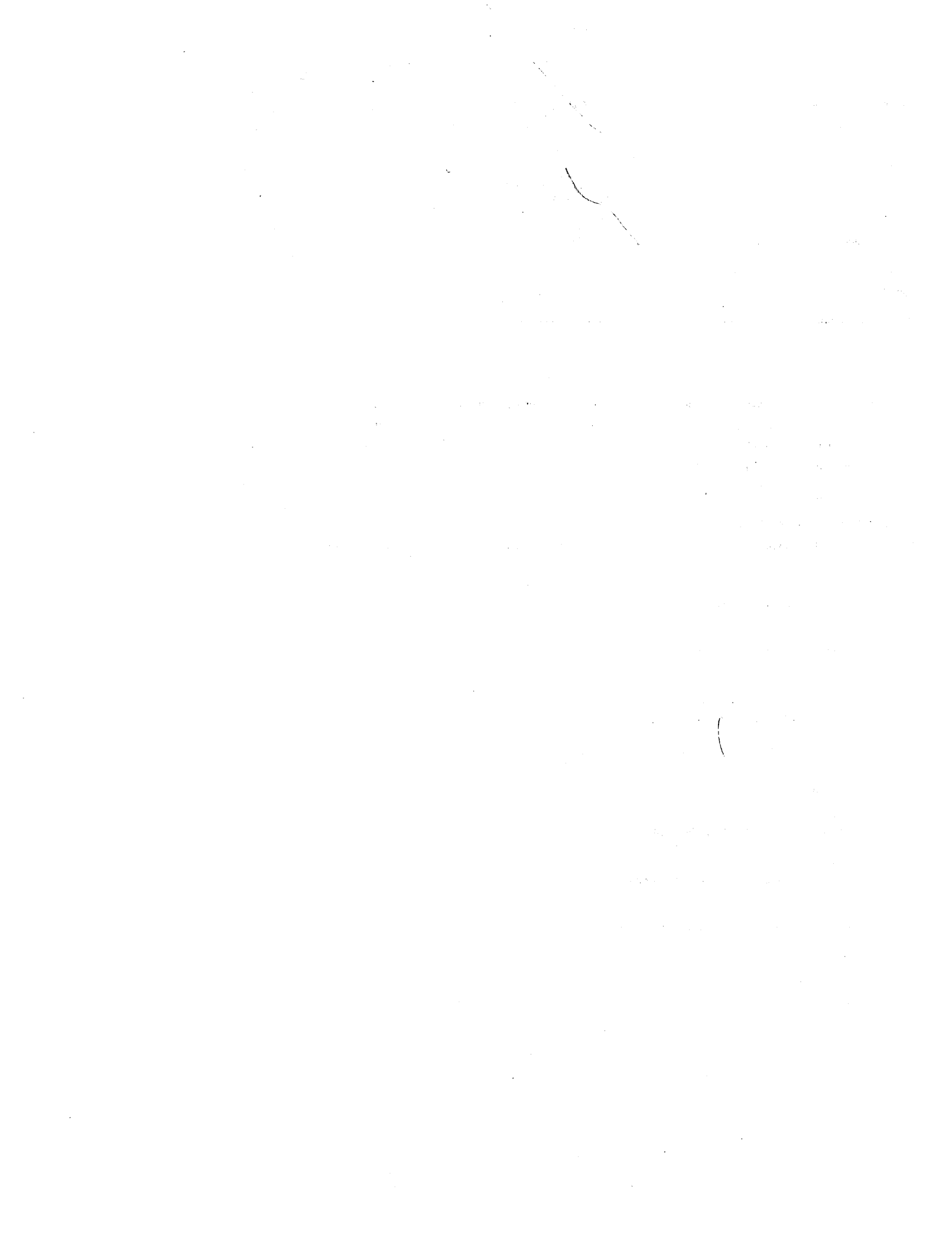
Name: Michael Meyer Phone: (512) 239-4492

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A 1 06/07/2007 (562303)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
LINDSEY CONTRACTORS, INC.
RN105222772

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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1036-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lindsey Contractors, Inc. ("Lindsey") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Lindsey appear before the Commission and together stipulate that:

1. Lindsey operates a road construction site at the southeast corner of the intersection of Ranch to Market Road 2631 and Cox-Gavlik Lane, north of Barksdale, in Real County, Texas (the "Site").
2. Lindsey has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Lindsey agree that the Commission has jurisdiction to enter this Agreed Order, and that Lindsey is subject to the Commission's jurisdiction.
4. Lindsey received notice of the violations alleged in Section II ("Allegations") on or about June 12, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Lindsey of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Dollars (\$6,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Lindsey has paid Four Thousand Eight Hundred Dollars (\$4,800) of the administrative penalty and One

Thousand Two Hundred Dollars (\$1,200) is deferred contingent upon Lindsey'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 Lindsey fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Lindsey 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 Lindsey 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 Lindsey 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

As operator of the Site, Lindsey is alleged to have:

1. Failed to prevent the discharge of asphalt emulsion into or adjacent to any water in the state and to immediately abate and contain the spill or discharge, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 327.5(a), as documented during an investigation conducted on May 7, 2007. Specifically, samples were collected in the northern runoff pathway, approximately 15 feet from the western bank of Bullhead Creek, and in the southern runoff pathway, approximately five feet from the western bank of Bullhead Creek. Analysis of these samples indicated total petroleum hydrocarbon levels of 12,000 and 5,400 milligrams per kilogram (mg/kg), respectively.
2. Failed to provide notification to the Commission of a reportable discharge or spill within 24 hours of discovery of the discharge, in violation of 30 TEX. ADMIN. CODE § 327.3(b), as documented during an investigation conducted on May 7, 2007. Specifically, notification provided by Lindsey dated May 4, 2007 indicated that the discharge occurred on March 6, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Lindsey pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Lindsey'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: Lindsey Contractors, Inc., Docket No. 2007-1036-WQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Lindsey shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this agreed order, submit a spill incident report describing the details of the spill and supporting the adequacy of the response action as required under 30 TEX. ADMIN. CODE § 327.5(c) to:

Regional Office Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

with a copy to:

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

- b. Within 15 days after completion of the response action, submit written certification as described below, and include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my

inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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:

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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

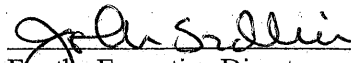
facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Lindsey, or three days after the date on which the Commission mails notice of the Order to Lindsey, 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

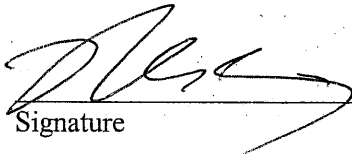
10/27/2007
Date

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

8/13/07
Date

Russell Lindsey
Name (Printed or typed)
Authorized Representative of
Lindsey Contractors, Inc.

Vice President
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.

