

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2003-1528-OSI-E TCEQ ID NO.: RN103051066 CASE NO.: 11125

RESPONDENT NAME: BRAD BOLTON

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 checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 1876 Farm-to-Market Road 2131, Coleman, Coleman County

TYPE OF OPERATION: On-site sewage facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 11, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-2053

Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Pam Campbell, Water Enforcement Section, MC 169, (512) 239-4493

TCEQ Regional Contact: Mr. Cliff Moore, Abilene Regional Office, MC R-3, (325) 698-6115

Respondent: Mr. Brad Bolton, P.O. Box 695, Coleman, Texas 76834

Respondent's Attorney: Mr. Paul Jensen, Attorney, P.O. Box 780, Coleman, Texas 76834

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 28, 2003</p> <p>Date of NOE Relating to this Case: April 1, 2003</p> <p>Background Facts:</p> <p>After attempts to resolve the violations for failure to have an installer license, an EDPRP was filed on 6/23/05. Respondent did not file an answer but made telephone contact, and agreed to settle the matter. Respondent failed to respond to an agreed settlement offer. A Default Order was filed but was remanded after a signed Agreed Order was received on 12/18/07.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>OSI:</p> <p>1. Failed to possess a current installer license before beginning construction of an OSSF system [30 TEX. ADMIN. CODE § 285.61(1) and TEX. HEALTH & SAFETY CODE § 366.071].</p> <p>2. Failed to obtain the permitting authorities authorization to construct an OSSF system [30 TEX. ADMIN. CODE § 285.61(4) and TEX. HEALTH & SAFETY CODE § 366.051(c)].</p> <p>3. Failed to notify the permitting authority of the date on which the construction of the OSSF system would begin [30 TEX. ADMIN. CODE § 285.61(5) and TEX. HEALTH & SAFETY CODE § 366.054].</p>	<p>Total Assessed: \$750</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$750</p> <p>The Respondent has paid the administrative penalty in full.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</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 Respondent shall undertake the following technical requirements:</p> <p>1. Immediately, cease installation or alteration of OSSFs and all other activities for which an OSSF installer license is required until proper training is completed and a TCEQ license is obtained.</p> <p>2. Within 15 days, submit all correspondence, reports, and documentation required by Ordering Provision No. 1.</p>

Penalty Calculation Worksheet (PCW)

 Policy Revision 2 (09/02)		PCW Revision 6/12/2003		
DATES				
PCW	28-Jul-2008	Screening	4-Dec-2003	
Priority Due	2-Apr-2004	EPA Due		
RESPONDENT INFORMATION				
Respondent	Brad Bolton			
Respondent/Site ID No(s)	TCEQ ID: None; Regulated Entity ID No. RN103051066			
Facility/Site Region	3 - Abilene	Major/Minor Source	Minor	
CASE INFORMATION				
Enf./Case ID No(s)	CCEDS Case ID No. 11125		No. Violations	3
Docket No.	2003-1528-OSI-E		Order Type	1660 without deferral
Case Priority	3	EC's Team	Enforcement Team 1	
Enf. Coordinator	Pamela Campbell		Media Program(s)	On-Site Sewage Disposal
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$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	0% Enhancement	Subtotals 2, 3 & 7	\$0
Notes	No prior NOV's or Orders in the past 5 years.		+
Culpability	0% Enhancement	Subtotal 4	\$0
Notes	The respondent does not meet the culpability criteria.		+
Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
Notes	The Respondent is not yet in compliance.		+
Economic Benefit	0% Enhancement*	Subtotal 6	\$0
\$32 Total EB Amounts	*Capped at the Total EB \$ Amount		=
\$540 Approx. Cost of Compliance			=
SUM OF SUBTOTALS 1-7		Final Subtotal	\$750
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%)		Final Penalty Amount	\$750
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$750
DEFERRAL		Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)			=
PAYABLE PENALTY			\$750

Screening Date 4-Dec-2003

Docket Number 2003-1528-OSI-E

PCW

Respondent Brad Bolton

Policy Revision 2 (09/02)

Case ID No. CCEDS Case ID No. 11125

PCW Revision 6/12/2003

Respondent/Site ID No. TCEQ ID: None; Regulated Entity ID No. RN103051066

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Pamela Campbell

Site Address 1876 FM 2131, Coleman, Texas

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	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	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%
	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%
Judgments and Consent Decrees	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%
	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%
	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%
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%
	<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)

N/A < Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A < Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance History Notes No prior NOVs or Orders in the past 5 years.

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

Screening Date 04-Dec-03

Docket Number 2003-1528-OSI-E

PCW

Respondent Brad Bolton

Policy Revision 2 (09/02)

Case ID No. CEEDS Case ID No. 11125

PCW Revision 6/12/2003

Respondent/Site ID No. TCEQ ID: None; Regulated Entity ID No. RN103051066

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Pamela Campbell

Violation Number 1

Primary Rule Cite 30 TEX. ADMIN. CODE § 285.61(1)

Secondary Cite(s) TEX. HEALTH & SAFETY CODE § 366.071

Violation Description As documented during the TCEQ Region 3 inspection conducted on February 28, 2003, the respondent failed to possess a current Installer license before beginning construction of an OSSF system at a private residence.

Base Penalty \$2,500

» Environmental, Property and Human Health Matrix

		Harm		
		Major	Moderate	Minor
OR	Release			
	Actual			
	Potential			

Percent:

» Programmatic Matrix

		Major	Moderate	Minor
OR	Falsification			
		x		

Percent: 10%

Matrix Notes 100% of the requirement was not met.

Adjustment -\$2,250

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

Events Notes

One single event is recommended based on the February 28, 2003 inspection date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$30

Violation Final Penalty total \$250

This Violation Final Assessed Penalty (adjusted for limits) \$250

Economic Benefit Worksheet

Respondent Brad Bolton
 ID Number(s) CCEDS Case ID No. 11125
 Media [Statute] On-Site Sewage Disposal
 Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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				0.0	\$0	n/a	\$0
Permit Costs	\$500	28-Feb-2003	15-May-2004	1.2	\$30	n/a	\$30
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated cost to obtain the proper OSSF Installer license, calculated from the date of the inspection (February 28, 2003) to the estimated date of obtaining a license (May 15, 2004).

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/equip				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

TOTAL

Screening Date 04-Dec-03

Docket Number 2003-1528-OSI-E

PCW

Respondent Brad Bolton

Policy Revision 2 (09/02)

Case ID No. CCEDS Case ID No. 11125

PCW Revision 6/12/2003

Respondent/Site ID No. TCEQ ID: None; Regulated Entity ID No. RN103051066

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Pamela Campbell

Violation Number 2

Primary Rule Cite 30 TEX. ADMIN. CODE § 285.61(4)

Secondary Cite(s) TEX. HEALTH & SAFETY CODE § 366.051(c)

Violation Description As documented during the TCEQ Region 3 inspection conducted on February 28, 2003, the respondent failed to obtain the permitting authorities authorization to construct an OSSF system.

Base Penalty \$2,500

» Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				
	Potential				

» Programmatic Matrix

OR	Falsification	Major	Moderate	Minor	Percent
		x			10%

Matrix Notes 100% of the requirement was not met.

Adjustment -\$2,250

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

Events Notes One single event is recommended based on the February 28, 2003 inspection date.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount (\$) \$2 Violation Final Penalty total \$250

This Violation Final Assessed Penalty (adjusted for limits) \$250

Economic Benefit Worksheet

Respondent Brad Bolton
ID Number(s) CCEDS Case ID No. 11125
Media [Statute] On-Site Sewage Disposal
Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)	\$25	28-Feb-2003	15-May-2004	1.2	\$0	\$2	\$2
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

The delayed costs include the estimated cost to obtain authorization from the permitting authority, calculated from the date of the inspection (February 28, 2003) to the estimated date of obtaining authorization (May 15, 2004).

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/equip				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

\$25

TOTAL

\$2

Screening Date 04-Dec-03

Docket Number 2003-1528-OSI-E

PCW

Respondent Brad Bolton

Policy Revision 2 (09/02)

Case ID No. CCEDS Case ID No. 11125

PCW Revision 6/12/2003

Respondent/Site ID No. TCEQ ID: None; Regulated Entity ID No. RN103051066

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Pamela Campbell

Violation Number 3

Primary Rule Cite 30 TEX. ADMIN. CODE § 285.61(5)

Secondary Cite(s) TEX. HEALTH & SAFETY CODE § 366.054

Violation Description As documented during the TCEQ Region 3 inspection conducted on February 28, 2003, the respondent failed to notify the permitting authority of the date on which the construction of the OSSF system would begin.

Base Penalty \$2,500

» Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

OR

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

OR

Percent 10%

Matrix Notes 100% of the requirement was not met.

Adjustment -\$2,250

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

Events Notes One single event is recommended based on the February 28, 2003 inspection date.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount (\$) \$0

Violation Final Penalty total \$250

This Violation Final Assessed Penalty (adjusted for limits) \$250

Economic Benefit Worksheet

Respondent Brad Bolton
 ID Number(s) CCEDS Case ID No. 11125
 Media [Statute] On-Site Sewage Disposal
 Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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				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	Cost	Date	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel	\$15	28-Feb-2003	1-Mar-2003	0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				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							

The avoided costs include the estimated cost to notify the permitting authority of the date on which the construction will begin for the OSSF system, calculated for the date of the inspection (February 28, 2003).

Approx Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN601589690 BOLTON, BRAD
Regulated Entity: RN103051066 BOLTON BRAD
ID Number(s):

Classification: Rating: 0.00
Classification: Site Rating: 0.00

Location:

TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: December 02, 2003
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 02, 1998 to December 02, 2003
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Bill Davis Phone: (512) 239-6793

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 :

- 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 dates of investigations.

2 06/24/2003

N/A

- E. Written notices of violations (NOV).

N/A

- 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
BRAD BOLTON
REGULATED ENTITY ID NO.
RN103051066

§
§
§
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§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2003-1528-OSI-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 Brad Bolton ("Mr. Bolton") under the authority of TEX. HEALTH & SAFETY CODE ch. 366 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Bolton appear before the Commission and together stipulate that:

1. Mr. Bolton installed an unauthorized on-site sewage facility (OSSF) at 1876 Farm-to-Market Road 2131 in Coleman, Coleman County, Texas (the "Site").
2. The TCEQ has general authority concerning the location, design, construction, installation, and proper functioning of an OSSF pursuant to TEX. HEALTH & SAFETY CODE ch. 366.
3. The Commission and Mr. Bolton agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Bolton is subject to the Commission's jurisdiction.
4. Mr. Bolton received notice of the violations alleged in Section II ("Allegations") on or about April 2, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Bolton of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Hundred Fifty Dollars (\$750.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Bolton has paid Seven Hundred Fifty Dollars (\$750.00) 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. Bolton 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. Bolton 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 the installer of the OSSF at the Site, Mr. Bolton is alleged to have:

1. Failed to possess a current Installer license before beginning construction of an OSSF system, in violation of 30 TEX. ADMIN. CODE § 285.61(1) and TEX. HEALTH & SAFETY CODE § 366.071, as documented during an investigation conducted on February 28, 2003;
2. Failed to obtain the permitting authorities authorization to construct an OSSF system, in violation of 30 TEX. ADMIN. CODE § 285.61(4) and TEX. HEALTH & SAFETY CODE § 366.051(c), as documented during an investigation conducted on February 28, 2003; and
3. Failed to notify the permitting authority of the date on which the construction of the OSSF system would begin, in violation of 30 TEX. ADMIN. CODE § 285.61(5) and TEX. HEALTH & SAFETY CODE § 366.054, as documented during an investigation conducted on February 28, 2003.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that an administrative penalty in the amount of seven hundred fifty dollars (\$750.00) be assessed as set fourth in Section I, Paragraph 6, of this Agreed Order for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Mr. Bolton's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed order in this action. The Commission, however, shall

not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. The administrative penalty may be made payable to "TCEQ" and shall be sent with the notation "Re: Brad Bolton, Docket No. 2003-1528-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. Bolton shall undertake the following technical requirements:

- a. Mr. Bolton shall immediately upon the effective date of this Agreed Order, cease installation or alteration of OSSFs and all other activities for which an OSSF installer license is required as described in 30 TEX. ADMIN. CODE §§ 285.50 and 30.240 until proper training is completed and a TCEQ license is obtained, in accordance with 30 TEX. ADMIN. CODE ch. 30.
- b. Within 15 days after the effective date of this Agreed 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 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 and accurate and complete. Im 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 149-A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Cliff Moore, Water Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

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

Gregory Perdue

For the Executive Director

2/3/08

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; and
- TCEQ seeking other relief as authorized by law.

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

Brad Bolton

Signature

12-18-07

Date

Brad Bolton

Name (Printed or typed)

Authorized representative of

Brad Bolton

Paul Jensen

Title

Paul Jensen, Attorney

PO Box 780 Coleman TX 76834 Tel 325-625-2770

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.