

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-0768-IWD-E **TCEQ ID:** RN104435821 **CASE NO.:** 35853

**RESPONDENT NAME:** Smith & Coffman, Ltd. dba Running W Truck Stop

<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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Running W Truck Stop, 24782 West Interstate Highway 20 and Willow Branch Road, Lindale, Smith County</p> <p><b>TYPE OF OPERATION:</b> Commercial truck stop</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 this facility location.</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 November 3, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512)-239-2171  <b>Respondent:</b> Mr. Wendell Reeder, Partner, Smith &amp; Coffman, Ltd., P.O. Box 1208, Clarksville, Texas 75426  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 10, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 28, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to comply with the permitted effluent limitations for benzene, toluene, ethylbenzene, and total xylenes [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG830129 Part III Section A Effluent Limitations].</p> <p>2) Failure to collect and analyze samples for a required parameter at the minimum frequency specified in the permit. Specifically, samples were not collected and analyzed for polynuclear aromatic hydrocarbons for the monitoring periods ending December 31, 2006, and February 28, 2007 through September 30, 2007 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES General Permit No. TXG830129 Part III Section A Effluent Limitations].</p> <p>3) Failure to submit the discharge monitoring report ("DMR") results at the intervals specified. Specifically, the quarterly DMR for effluent for the monitoring period ending July 31, 2007 was not submitted timely [30 TEX. ADMIN. CODE § 305.125(17) and TPDES General Permit No. TXG830129 Part IV Standard Permit Condition 7(f)].</p>	<p><b>Total Assessed:</b> \$11,503</p> <p><b>Total Deferred:</b> \$2,300  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$9,203</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has submitted the DMR for the monitoring period ending July 31, 2007 on November 1, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, develop and begin implementing procedures to ensure that samples are collected and analyzed for the required parameters at the frequency specified; and</p> <p>b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES General Permit No. TXG830129, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): TPDES General Permit No. TXG830129



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

<b>DATES</b>	<b>Assigned</b>	4-May-2008			
	<b>PCW</b>	13-May-2008	<b>Screening</b>	7-May-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Smith & Coffman, Ltd. dba Running W Truck Stop
<b>Reg. Ent. Ref. No.</b>	RN104435821
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	35853	<b>No. of Violations</b>	3
<b>Docket No.</b>	2008-0768-IWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	J. Craig Fleming
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$6,600</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	70.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$4,620</b>
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**Notes**  
An enhancement is recommended for having 13 self-reported effluent violations, and one NOV for violations that are same or similar to those cited in this action.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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**Notes**  
The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0.0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

<b>0.0% Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$2,433	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$15,985	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$11,220</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	2.5%	<b>Adjustment</b>	<b>\$283</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**  
Avoided cost for not collecting and analyzing effluent samples at the required frequencies.

<b>Final Penalty Amount</b>	<b>\$11,503</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$11,503</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$2,300</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**  
Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$9,203</b>
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<b>Screening Date</b>	7-May-2008	<b>Docket No.</b>	2008-0768-IWD-E	<b>PCW</b>
<b>Respondent</b>	Smith & Coffman, Ltd. dba Running W Truck Stop			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	35853			<i>PCW Revision April 29, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN104435821			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	J. Craig Fleming			

### 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 <i>(number of NOVs meeting criteria)</i>	14	70%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	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)** 70%

**>> Repeat Violator (Subtotal 3)**

No	<b>Adjustment Percentage (Subtotal 3)</b> 0%
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**>> Compliance History Person Classification (Subtotal 7)**

Average Performer	<b>Adjustment Percentage (Subtotal 7)</b> 0%
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**>> Compliance History Summary**

<b>Compliance History Notes</b>	An enhancement is recommended for having 13 self-reported effluent violations, and one NOV for violations that are same or similar to those cited in this action.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 70%

<b>Screening Date</b>	7-May-2008	<b>Docket No.</b>	2008-0768-IWD-E	<b>PCW</b>
<b>Respondent</b>	Smith & Coffman, Ltd. dba Running W Truck Stop			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	35853			<i>PCW Revision April 29, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN104435821			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	J. Craig Fleming			

<b>Violation Number</b>	1
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TPDES General Permit No. TXG830129 Part III Section A Effluent Limitations
<b>Violation Description</b>	Failed to comply with the permitted effluent limitations as documented in a record review conducted on March 10, 2008. See attached table.
<b>Base Penalty</b>	\$10,000

**>> Environmental, Property and Human Health Matrix**

OR		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	<b>Actual</b>			x	<b>Percent</b> 10%
	<b>Potential</b>				

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
					<b>Percent</b> 0%

**Matrix Notes**

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

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events: 2      121 Number of violation days

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

**Violation Base Penalty** \$2,000

Two quarterly events are recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount: \$2,143	Violation Final Penalty Total: \$3,486
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$3,486	

### Economic Benefit Worksheet

**Respondent** Smith & Coffman, Ltd. dba Running W Truck Stop  
**Case ID No.** 35853  
**Reg. Ent. Reference No.** RN104435821  
**Media** Water Quality  
**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$15,000	1-Dec-2006	1-Dec-2008	2.00	\$100	\$2,003	\$2,103
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$400	1-Dec-2006	1-Dec-2008	2.00	\$40	n/a	\$40
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The estimated cost of evaluating the effluent noncompliance is \$5,000 and implementing necessary rehabilitation work is \$10,000. Estimated cost of additional operator training and process control testing is based on \$100 per month. The Date Required is the date the noncompliances started. The Final Date is the expected date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

NA

**Approx. Cost of Compliance**

\$15,400

**TOTAL**

\$2,143

**Screening Date** 7-May-2008 **Docket No.** 2008-0768-IWD-E **PCW**  
**Respondent** Smith & Coffman, Ltd. dba Running W Truck Stop *Policy Revision 2 (September 2002)*  
**Case ID No.** 35853 *PCW Revision April 29, 2008*  
**Reg. Ent. Reference No.** RN104435821  
**Media [Statute]** Water Quality  
**Enf. Coordinator** J. Craig Fleming

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1) and 319.5(b) and TPDES General Permit No. TXG830129 Part III Section A Effluent Limitations

**Violation Description** Failed to collect and analyze samples for a required parameter at the minimum frequency specified in the permit. Specifically, samples were not collected and analyzed for polynuclear aromatic hydrocarbons for the monitoring periods ending December 31, 2006, and February 28, 2007 through September 30, 2007.

**Base Penalty** \$10,000

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5%
Potential			X		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes**

Failure to analyze effluent samples at the minimum frequencies may result in unknown effluent excursions and a release of insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

**Adjustment** \$9,500

\$500

**Violation Events**

Number of Violation Events 9 Number of violation days 273

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

**Violation Base Penalty** \$4,500

Nine single events (one for each noncompliant month) are recommended.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$290

**Violation Final Penalty Total** \$7,843

**This violation Final Assessed Penalty (adjusted for limits)** \$7,843

### Economic Benefit Worksheet

**Respondent** Smith & Coffman, Ltd. dba Running W Truck Stop  
**Case ID No.** 35853  
**Reg. Ent. Reference No.** RN104435821  
**Media** Water Quality  
**Violation No.** 2

<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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$200	10-Mar-2008	1-Dec-2008	0.73	\$7	n/a	\$7
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to update operational guidance and conduct employee training to ensure that samples are collected and analyzed at the minimum required frequencies. Date Required is the record review date. The Final Date is the expected date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$360	31-Dec-2006	30-Sep-2007	0.75	\$13	\$269	\$283
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**  
 Estimated avoided cost (\$20 per avoided sampling event) by failing to collect and analyze effluent samples at the required frequencies. Date required is the date when all effluent parameters were required to be analyzed during the first noncompliant month. The Final Date is the date when all effluent parameters were required to be analyzed during the last noncompliant month.

<b>Approx. Cost of Compliance</b>	\$560	<b>TOTAL</b>	\$290
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<b>Screening Date</b>	7-May-2008	<b>Docket No.</b>	2008-0768-IWD-E	<b>PCW</b>
<b>Respondent</b>	Smith & Coffman, Ltd. dba Running W Truck Stop			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	35853			<i>PCW Revision April 29, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN104435821			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	J. Craig Fleming			

<b>Violation Number</b>	3
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(17), and TPDES General Permit No. TXG830129 Part IV, Standard Permit Condition 7(f)
<b>Violation Description</b>	Failed to submit the discharge monitoring report ("DMR") results at the intervals specified. Specifically, the quarterly DMR for effluent for the monitoring period ending July 31, 2007 was not submitted timely.
<b>Base Penalty</b>	\$10,000

>> Environmental, Property and Human Health Matrix

OR	<b>Harm</b>			Percent	0%	
	<b>Release</b>	Major	Moderate			Minor
	Actual					
	Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent	1%
				X		
<b>Matrix Notes</b>	Most, but not all (at least 70 percent) of the permit requirement was met.					

<b>Adjustment</b>	\$9,900
	\$100

Violation Events

<b>Number of Violation Events</b>	1	<b>Number of violation days</b>	12	
<i>mark only one with an x</i>	daily		<b>Violation Base Penalty</b>	\$100
	monthly			
	quarterly			
	semiannual			
	annual			
single event	X			
One single event is recommended.				

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	\$0
<b>Violation Final Penalty Total</b>	\$174
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$174

### Economic Benefit Worksheet

**Respondent** Smith & Coffman, Ltd. dba Running W Truck Stop  
**Case ID No.** 35853  
**Reg. Ent. Reference No.** RN104435821  
**Media** Water Quality  
**Violation No.** 3

<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
No commas or \$							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	20-Oct-2007	1-Nov-2007	0.03	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit the quarterly DMR report. The Date Required is the date the report was due. The Final Date is the date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$25

**TOTAL**

\$0

**EFFLUENT VIOLATION TABLE**  
**Smith & Coffman, Ltd. dba Running W Truck Stop**  
**Docket No. 2008-0768-IWD-E**

	Total BTEX (sum of Benzene, Toluene, Ethylbenzene, and Total Xylenes) Daily Average Limit of 0.10 mg/L	Total BTEX (sum of Benzene, Toluene, Ethylbenzene, and Total Xylenes) Daily Maximum Limit of 0.10 mg/L	Benzene Daily Average Limit of 0.005 mg/L	Benzene Daily Maximum Limit of 0.005 mg/L
<b><i>Month/Year</i></b>				
December-2006	0.128 mg/L	0.128 mg/L	0.0332 mg/L	0.0332 mg/L
February-2007	C	C	0.00956 mg/L	0.0101 mg/L
March-2007	C	C	0.0127 mg/L	0.0127 mg/L
May-2007	0.13 mg/L	0.385 mg/L	0.04 mg/L	0.13 mg/L

Name	Abbreviation
Milligrams per liter	mg/L
Compliant	C



# Compliance History

Customer/Respondent/Owner-Operator:	CN600900310 Smith & Coffman, Ltd.	Classification: AVERAGE	Rating: 2.63
Regulated Entity:	RN104435821 RUNNING W TRUCK STOP	Classification: AVERAGE	Site Rating: 1.76
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	59960
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	950985L
	AIR NEW SOURCE PERMITS	PERMIT	50985
	WASTE WATER GENERAL PERMIT	PERMIT	TXG830129
Location:	24782 W IH 20 & WILLOW BRANCH RD, LINDALE, TX 75771	Running Date 9/01/2007	Repeat Violator: No
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	May 06, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 06, 2003 to May 06, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>J. Craig Fleming</u>	Phone:	<u>(512) 239-5806</u>

## 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?                                                         | <u>N/A</u> |
| 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.)                                                     |     |
- |    |            |          |
|----|------------|----------|
| 1  | 11/12/2003 | (249420) |
| 2  | 10/21/2005 | (496666) |
| 3  | 10/24/2005 | (496663) |
| 4  | 10/24/2005 | (496664) |
| 5  | 10/24/2005 | (496665) |
| 6  | 10/24/2005 | (496667) |
| 7  | 10/24/2005 | (496668) |
| 8  | 10/24/2005 | (496669) |
| 9  | 10/24/2005 | (496670) |
| 10 | 10/24/2005 | (496671) |
| 11 | 10/24/2005 | (496672) |
| 12 | 10/24/2005 | (496673) |
| 13 | 10/24/2005 | (496674) |
| 14 | 08/16/2006 | (531079) |
| 15 | 08/31/2006 | (530760) |
| 16 | 08/31/2006 | (530761) |
| 17 | 08/31/2006 | (530762) |
| 18 | 08/31/2006 | (530763) |
| 19 | 08/31/2006 | (530764) |
| 20 | 08/31/2006 | (530765) |

21 08/31/2006 (530766)  
 22 08/31/2006 (530767)  
 23 08/31/2006 (530768)  
 24 08/31/2006 (530769)  
 25 11/03/2006 (553453)  
 26 11/03/2006 (553454)  
 27 11/03/2006 (553455)  
 28 06/06/2007 (592679)  
 29 06/06/2007 (592680)  
 30 06/06/2007 (592681)  
 31 06/06/2007 (592683)  
 32 06/06/2007 (592684)  
 33 06/07/2007 (592682)  
 34 09/24/2007 (607204)  
 35 09/24/2007 (607205)  
 36 09/24/2007 (607206)  
 37 09/24/2007 (607207)  
 38 04/28/2008 (638629)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date 11/30/2005 (530768)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 12/31/2005 (530769)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 01/31/2006 (530760)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 03/31/2006 (530762)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 06/30/2006 (530765)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 07/31/2006 (530766)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 08/16/2006 (531079)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: 30 TAC Chapter 305, SubChapter F 305.125(17)  
 NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Date 09/30/2006 (553454)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 10/31/2006 (553455)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 11/30/2006 (592683)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 12/31/2006 (592684)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 02/28/2007 (592680)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 03/31/2007 (592681)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter  
 Date 05/31/2007 (607204)  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

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  
SMITH & COFFMAN, LTD. DBA  
RUNNING W TRUCK STOP  
RN104435821

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-0768-IWD-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 Smith & Coffman, Ltd. dba Running W Truck Stop ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a commercial truck stop at 24782 West Interstate Highway 20 and Willow Branch Road, Lindale, Smith County, Texas (the "Facility").
2. The Respondent 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 3, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Eleven Thousand Five Hundred Three Dollars (\$11,503) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Two Hundred Three Dollars (\$9,203) of the administrative penalty and Two Thousand Three Hundred Dollars (\$2,300) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has submitted the discharge monitoring report for the monitoring period ending July 31, 2007 on November 1, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with the permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG830129 Part III Section A Effluent Limitations, as documented in a record review conducted on March 10, 2008, and shown in the following table.



**EFFLUENT VIOLATION TABLE**

	Total BTEX (sum of Benzene, Toluene, Ethylbenzene, and Total Xylenes) Daily Average Limit of 0.10 mg/L	Total BTEX (sum of Benzene, Toluene, Ethylbenzene, and Total Xylenes) Daily Maximum Limit of 0.10 mg/L	Benzene Daily Average Limit of 0.005 mg/L	Benzene Daily Maximum Limit of 0.005 mg/L
<b>Month/Year</b>				
December-2006	0.128 mg/L	0.128 mg/L	0.0332 mg/L	0.0332 mg/L
February-2007	C	C	0.00956 mg/L	0.0101 mg/L
March-2007	C	C	0.0127 mg/L	0.0127 mg/L
May-2007	0.13 mg/L	0.385 mg/L	0.04 mg/L	0.13 mg/L

Name	Abbreviation
Milligrams per liter	mg/L
Compliant	C

- Failed to collect and analyze samples for a required parameter at the minimum frequency specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES General Permit No. TXG830129 Part III Section A Effluent Limitations, as documented during a record review conducted on March 10, 2008. Specifically, samples were not collected and analyzed for polynuclear aromatic hydrocarbons for the monitoring periods ending December 31, 2006, and February 28, 2007 through September 30, 2007.
- Failed to submit the discharge monitoring report ("DMR") results at the intervals specified, in violation of 30 TEX. ADMIN. CODE § 305.125(17), and TPDES General Permit No. TXG830129 Part IV Standard Permit Condition 7(f), as documented during a record review conducted on March 10, 2008. Specifically, the quarterly DMR for effluent for the monitoring period ending July 31, 2007 was not submitted timely.

**III. DENIALS**

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



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Smith & Coffman, Ltd. dba Running W Truck Stop, Docket No. 2008-0768-IWD-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 the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, develop and begin implementing procedures to ensure that samples are collected and analyzed for the required parameters at the frequency specified, in accordance with TPDES General Permit No. TXG830129; and
  - b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES General Permit No. TXG830129, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall 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:



Water Section, Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent 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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

John Srdin  
For the Executive Director

10/10/2008  
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.

Wanda Srdin  
Signature

8-18-08  
Date

Wanda Srdin  
Name (Printed or typed)  
Authorized Representative of  
Smith & Coffman, Ltd. dba Running W Truck Stop

Partner  
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.

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