

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1585-WQ-E **TCEQ ID:** RN105330864 **CASE NO.:** 34747

RESPONDENT NAME: Tarken Builders, Ltd.

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: Tarken Builders Oaks at Bent Water, 1702 Farm-to-Market Road 3036, Rockport, Aransas County</p> <p>TYPE OF OPERATION: Residential construction</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received July 20, 2007, alleging black-colored runoff into a drainage system from a development project located on FM 3036 near Rockport. The complainant expressed concern that the water could be contaminated. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: Complaints were received, but the complainants have not expressed a desire to protest this action or speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 14, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Andrew Hunt, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Frank Ratliff, Vice President, Tarken Builders, Ltd., 908 Town and Country Blvd., Suite 225, Houston, Texas 77024 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: July 20, 2007</p> <p>Date of Investigation Relating to this Case: August 28, 2007</p> <p>Date of NOV/NOE Relating to this Case: September 26, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. Two violations were documented.</p> <p>WATER</p> <p>1) Failure to obtain authorization to discharge storm water associated with construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4)].</p> <p>2) Failure to prevent the unauthorized discharge of storm water and sediment into or adjacent to water in the state. Specifically, a discharge of storm water and construction sediment was observed at the southeast entrance on Colonial Drive continuing off-site into a storm drain inlet adjacent to a golf course pond [TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$2,000</p> <p>Total Deferred: \$400 <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: \$1,600</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" 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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has submitted the Notice of Intent to obtain authorization to discharge storm water and implemented a Storm Water Pollution Prevention Plan on September 11, 2007.</p> <p>Ordering Provisions:</p> <p>1) Within 30 days after the effective date of this Agreed Order ensure proper installation and maintenance of erosion and sediment controls and remove all sediment accumulations from the southeastern entrance of the Site to the storm drain inlet on Colonial Drive; and</p> <p>2) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 1.</p>

Additional ID No(s): None



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

DATES	Assigned	8-Oct-2007	Screening	9-Oct-2007	EPA Due	
	PCW	10-Oct-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Tarken Builders, Ltd.
Reg. Ent. Ref. No.	RN105330864
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34747	No. of Violations	2	
Docket No.	2007-1585-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Andrew Hunt	
Multi-Media		EC's Team	EnforcementTeam 1	
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 Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes

Total EB Amounts Enhancement* **Subtotal 6**
 *Capped at the Total EB \$ Amount
Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 9-Oct-2007

Docket No. 2007-1585-WQ-E

PCW

Respondent Tarken Builders, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 34747

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN105330864

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

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%
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 judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were 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%

Please Enter Yes or No

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

No enhancement is recommended due to no previous compliance history.

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

Screening Date 9-Oct-2007	Docket No. 2007-1585-WQ-E	PCW
Respondent Tarken Builders, Ltd.		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 34747		<small>PCW Revision September 19, 2007</small>
Reg. Ent. Reference No. RN105330864		
Media [Statute] Water Quality		
Enf. Coordinator Andrew Hunt		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4)	
Violation Description	Failed to obtain authorization to discharge storm water associated with construction activities, as documented during an investigation conducted on August 28, 2007.	
	Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width:50px;" type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

	Falsification				
		Major	Moderate	Minor	
		<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width:50px;" type="text" value="10%"/>
Matrix Notes	100% of rule requirement was not met.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One monthly event is recommended from date of investigation (August 28, 2007) until a Notice of Intent was submitted and a Storm Water Pollution Prevention Plan implemented (September 11, 2007).

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 Tarken Builders, Ltd.
Case ID No. 34747
Reg. Ent. Reference No. RN105330864
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
No commas or \$							

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	\$2,000	28-Aug-2007	11-Sep-2007	0.0	\$4	n/a	\$4
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs Estimated costs to develop and implement a SWP3 plan and to obtain a permit to discharge storm water at a construction site, beginning on the date of the investigation, and ending on the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$2,000	TOTAL	\$4
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Screening Date 9-Oct-2007	Docket No. 2007-1585-WQ-E	PCW
Respondent Tarken Builders, Ltd.		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 34747		<small>PCW Revision September 19, 2007</small>
Reg. Ent. Reference No. RN105330864		
Media [Statute] Water Quality		
Enf. Coordinator Andrew Hunt		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	Tex. Water Code § 26.121(a)	
Violation Description	Failed to prevent the unauthorized discharge of storm water and sediment into or adjacent to water in the state, as documented during an investigation on August 28, 2007. Specifically, a discharge of storm water and construction sediment was observed at the southeast entrance on Colonial Drive continuing off-site into a storm drain inlet adjacent to a golf course pond.	
	Base Penalty	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="checkbox"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="0%"/>
Matrix Notes	Human health and 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

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="42"/>	Number of violation days
mark only one with an x daily <input type="text"/> monthly <input type="text"/> quarterly <input checked="" type="checkbox"/> semiannual <input type="text"/> annual <input type="text"/> single event <input type="text"/>		Violation Base Penalty <input type="text" value="\$1,000"/>

One quarterly violation event is recommended from date of investigation (August 28, 2007) until screening date (October 9, 2007).

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$19"/>	Violation Final Penalty Total <input type="text" value="\$1,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,000"/>	

Economic Benefit Worksheet

Respondent: Tarken Builders, Ltd.
Case ID No.: 34747
Reg. Ent. Reference No.: RN105330864
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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	28-Aug-2007	10-Mar-2008	0.5	\$1	\$18	\$19
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 Estimated cost to properly install and maintain silt fence and remove accumulated sediments. Date Required is the investigation date. Final Date is the expected date of compliance.

Avoided Costs

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

Disposal				0.0	\$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	\$500	TOTAL	\$19
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Compliance History

Customer/Respondent/Owner-Operator: CN603164872 TARKEN BUILDERS, LTD. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105330864 TARKEN BUILDERS OAKS AT BENT WATER Classification: AVERAGE BY DEFAULT Site Rating: 3.01
ID Number(s):
Location: 1702 FM 3036, ROCKPORT, ARANSAS COUNTY, TX Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: October 01, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 01, 2002 to October 01, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Andrew Hunt Phone: 512-239-1203

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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
- 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
TARKEN BUILDERS, LTD.
RN105330864

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§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1585-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 Tarken Builders, Ltd. ("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 residential construction site at 1702 Farm-to-Market Road 3036 in Rockport, Aransas County, Texas (the "Site").
2. The Respondent has discharged stormwater into or adjacent to 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 October 1, 2007.
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 Two Thousand Dollars (\$2,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Six Hundred Dollars (\$1,600) of the administrative penalty and Four

Hundred Dollars (\$400) 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 Notice of Intent to obtain authorization to discharge storm water and implemented a Storm Water Pollution Prevention Plan on September 11, 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 Site, the Respondent is alleged to have:

1. Failed to obtain authorization to discharge storm water associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), as documented during an investigation conducted on August 28, 2007.
2. Failed to prevent the unauthorized discharge of storm water and sediment into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a), as documented during an investigation on August 28, 2007. Specifically, a discharge of storm water and construction sediment was observed at the southeast entrance on Colonial Drive continuing off-site into a storm drain inlet adjacent to a golf course pond.

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: Tarken Builders, Ltd., Docket No. 2007-1585-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 the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order ensure proper installation and maintenance of erosion and sediment controls and remove all sediment accumulations from the southeastern entrance of the Site to the storm drain inlet on Colonial Drive, in accordance with TPDES General Permit No. TXR150000, Part III, Section F (2); and
 - b. Within 45 days after the effective date of this Agreed Order, 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. 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
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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 Site 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



For the Executive Director

Date 12/14/07

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

Date 11-05-07

FRANK O. RATLIFF
Name (Printed or typed)
Authorized Representative of
Tarken Builders, Ltd.

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.

