

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1999-OSS-E **TCEQ ID:** RN104951868 **CASE NO.:** 31762

RESPONDENT NAME: Enrique Valenzuela

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: 13126 State Highway 15, Ochiltree County</p> <p>TYPE OF OPERATION: Subdivision development</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on May 1, 2006, regarding multiple mobile homes on the site with sewage on the ground. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 30, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Sidney Wheeler, Enforcement Division, Enforcement Team 4, MC R-13, (210) 403-4078; Mr. Byyan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Enrique P. Valenzuela, P.O. Box 116, Perryton, Texas 79070 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 of Complaint Relating to this Case: May 1, 2006</p> <p>Date of Investigation Relating to this Case: September 28, 2006</p> <p>Date of NOE Relating to this Case: October 16, 2006 (NOE)</p> <p>Background Facts: This was a complaint investigation. Two violations were documented.</p> <p>WATER</p> <p>1) Failed to prevent the unauthorized discharge of domestic sewage from mobile homes located on the subdivided property at 13126 State Highway 15 in Ochiltree County by not ensuring that authorized and functioning On-Site Sewage Facilities ("OSSFs") were provided for all lots being sold under Contract for Deed Agreements [30 TEX. ADMIN. CODE § 285.1(a)].</p> <p>2) Failed to submit the required land planning and site evaluations and the overall site suitability evaluation for the proposed mobile home community that use OSSFs and to obtain authorization for the installation of appropriate OSSFs [30 TEX. ADMIN. CODE §§ 285.3(a) and (b)(1) and 285.4(a) and (c)].</p>	<p>Total Assessed: \$4,462</p> <p>Total Deferred: \$892 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$303 (the remaining \$3,267 to be paid in 11 monthly payments of \$297 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease the discharge and/or disposal of all sewage to surface soils from all residences at the Site and have any additional sewage being generated at the Site disposed of at a permitted wastewater treatment facility;</p> <p>b. Within 30 days after the effective date of this Agreed Order, complete the cleanup of all sewage discharged to surface soils at the Site and properly dispose of all wastes at an authorized disposal facility;</p> <p>c. Within 30 days after the effective date of this Agreed Order, submit planning materials prepared by a Texas registered professional engineer or registered sanitarian;</p> <p>d. Respond completely and adequately, as determined by the TCBO, to all requests for information concerning the planning materials within 30 days after the date of such requests or by any other deadline specified in writing;</p> <p>e. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a. through d., as described in Ordering Provision f. below; and</p> <p>f. Within 90 days after the effective date of this Agreed Order, submit written certification that the OSSFs at the Site are in compliance with 30 TEX. ADMIN. CODE ch. 285. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 17, 2006

TCEQ

DATES	Assigned	23-Oct-2006	Screening	17-Nov-2006	EPA Due	
	PCW	12-Dec-2006				

RESPONDENT/FACILITY INFORMATION			
Respondent	Enrique Valenzuela		
Reg. Ent. Ref. No.	RN104951868		
Facility/Site Region	1-Amarillo	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	31762	No. of Violations	2	
Docket No.	2006-1999-OSS-E	Order Type	1660	
Media Program(s)	On-Site Sewage Disposal	Enf. Coordinator	Catherine Albrecht	
Multi-Media		EC's Team	EnforcementTeam 1	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$2,500

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 5% Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability No 0% Enhancement **Subtotal 4**

Notes

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

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

Notes

Total EB Amounts 0% 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. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL 20% 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 17-Nov-2006

Docket No. 2006-1999-OSS-E

PCW

Respondent Enrique Valenzuela

Policy Revision 2 (September 2002)

Case ID No. 31762

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN104951868

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Catherine Albrecht

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)	1	5%
	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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has one NOV for same or similar violations at this Site during the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 17-Nov-2006

Docket No. 2006-1999-OSS-E

PCW

Respondent Enrique Valenzuela

Policy Revision 2 (September 2002)

Case ID No. 31762

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN104951868

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Catherine Albrecht

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 285.1(a)

Violation Description Failed to prevent the unauthorized discharge of domestic sewage from mobile homes located on the subdivided property at 13126 State Highway 15 in Ochiltree County by not ensuring that authorized on-site sewage systems were provided at all residences. Specifically, sewage from the residences at the Site was being discharged to and/or pooling on the ground surface.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes Failure to prevent the unauthorized discharge of sewage resulted in the exposure of a significant amount of contaminants as a result of this violation.

Adjustment \$1,875

\$625

Violation Events

Number of Violation Events 6 Number of violation days 50

Table for frequency: daily, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$3,750

Six monthly events are recommended for the unauthorized discharges from three residences from the investigation date of September 28, 2006 to the screening date of November 17, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,500

Violation Final Penalty Total \$3,937

This violation Final Assessed Penalty (adjusted for limits) \$3,937

Economic Benefit Worksheet

Respondent Enrique Valenzuela
Case ID No. 31762
Reg. Ent. Reference No. RN104951868
Media On-Site Sewage Disposal
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
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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	\$25,000	2-Jun-2006	1-Jun-2008	2.0	\$167	\$3,333	\$3,500
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 costs of the installation of a permitted, community wastewater treatment and disposal system for a mobile home community is \$25,000. Date required is date of the first investigation. Final date is the projected 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	\$25,000	TOTAL	\$3,500
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Screening Date 17-Nov-2006

Docket No. 2006-1999-OSS-E

PCW

Respondent Enrique Valenzuela

Policy Revision 2 (September 2002)

Case ID No. 31762

PCW Revision November 17, 2006

Reg. Ent. Reference No. RN104951868

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Catherine Albrecht

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 285.3(a) and (b)(1) and 285.4(a) and (c)

Violation Description Failed to submit the required land planning and site evaluations and the overall site suitability evaluation for the proposed mobile home community that use on-site sewage facilities (OSSFs) and to obtain authorization for the installation of appropriate OSSFs.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rules were not met by not submitting subdivision and OSSF plans and obtaining authorization for the installations of OSSFs.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 2

50 Number of violation days

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

Violation Base Penalty \$500

Two monthly events are recommended from the investigation date of September 28, 2006 to the screening date of November 17, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$291

Violation Final Penalty Total \$525

This violation Final Assessed Penalty (adjusted for limits) \$525

Economic Benefit Worksheet

Respondent Enrique Valenzuela
Case ID No. 31762
Reg. Ent. Reference No. RN104951868
Media On-Site Sewage Disposal
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$5,000	2-Jun-2006	1-Aug-2007	1.2	\$291	n/a	\$291
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of preparing and submitting a wastewater discharge permit application for the mobile home community development because the lots have been subdivided and contracted for sale that are too small for individual OSSFs. Date required is the date of the first investigation. Final date is the projected 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

\$5,000

TOTAL

\$291

Compliance History

Customer/Respondent/Owner-Operator: CN603033036 VALENZUELA, ENRIQUE Classification: Rating:
Regulated Entity: RN104951868 COMPLAINT AT 13126 STATE HIGHWAY 15 Classification: Site Rating:

ID Number(s):

Location: 13126 STATE HIGHWAY 15, PERRYTON, TX, 79070

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: November 02, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 02, 2001 to November 02, 2006

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

Name: Catherine Albrecht Phone: (713)767-3672

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A 1 10/16/2006 (512186)

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

Date: 06/02/2006 (466046)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 285, SubChapter A 285.2(42)

Description: Failure to properly dispose of domestic sewage from three residences located at 13126 State Highway 15, Ochiltree County, Texas.

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
ENRIQUE VALENZUELA
RN104951868

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-1999-OSS-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 Enrique Valenzuela ("Mr. Valenzuela") 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. Valenzuela appear before the Commission and together stipulate that:

1. Mr. Valenzuela owns and operates a subdivision development located at 13126 State Highway 15 in Ochiltree County, Texas (the "Site").
2. The TCEQ has general authority concerning the location, design, construction, installation, and proper functioning of an On-Site Sewage Facility ("OSSF") pursuant to TEX. HEALTH & SAFETY CODE ch. 366.
3. The Commission and Mr. Valenzuela agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Valenzuela is subject to the Commission's jurisdiction.
4. Mr. Valenzuela received notice of the violations alleged in Section II ("Allegations") on or about October 21, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Valenzuela of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Four Hundred Sixty-Two Dollars (\$4,462) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Valenzuela has paid Three Hundred Three Dollars (\$303) of the

administrative penalty and Eight Hundred Ninety-Two Dollars (\$892) is deferred contingent upon Mr. Valenzuela'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 Mr. Valenzuela fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Valenzuela to pay all or part of the deferred penalty.

The remaining amount of Three Thousand Two Hundred Sixty-Seven Dollars (\$3,267) of the administrative penalty shall be payable in 11 monthly payments of Two Hundred Ninety-Seven Dollars (\$297) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Valenzuela fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Valenzuela to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Valenzuela to timely and satisfactorily comply with all the terms of this Agreed Order.

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. Valenzuela 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. Valenzuela 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 owner and operator of the Site, Mr. Valenzuela is alleged to have:

1. Failed to prevent the unauthorized discharge of domestic sewage from mobile homes located on the subdivided property at 13126 State Highway 15 in Ochiltree County by not ensuring that authorized and functioning OSSFs were provided for all lots being sold under Contract for Deed Agreements, in violation of 30 TEX. ADMIN. CODE § 285.1(a), as documented during an investigation conducted on September 28, 2006.
2. Failed to submit the required land planning and site evaluations and the overall site suitability evaluation for the proposed mobile home community that use OSSFs and to obtain authorization

for the installation of appropriate OSSFs, in violation of 30 TEX. ADMIN. CODE §§ 285.3(a) and (b)(1) and 285.4(a) and (c), as documented during an investigation conducted on September 28, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Valenzuela pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Valenzuela'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: Enrique Valenzuela, Docket No. 2006-1999-OSS-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 Mr. Valenzuela shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease the discharge and/or disposal of all sewage to surface soils from all residences at the Site and have any additional sewage being generated at the Site disposed of at a permitted wastewater treatment facility;
 - b. Within 30 days after the effective date of this Agreed Order, complete the cleanup of all sewage discharged to surface soils at the Site and properly dispose of all wastes at an authorized disposal facility;
 - c. Within 30 days after the effective date of this Agreed Order, submit planning materials prepared by a Texas registered professional engineer or registered sanitarian as required by 30 TEX. ADMIN. CODE §§ 285.4(c) and 285.5(a) to:

Texas Commission on Environmental Quality
Amarillo Regional Office, OSSF Section
3918 Canyon Drive
Amarillo, Texas 79109-4933

- d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the planning materials within 30 days after the date of such requests or by any other deadline specified in writing;

- e. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a. through 2.d., as described in Ordering Provision No. 2.f. below; and
- f. Within 90 days after the effective date of this Agreed Order, submit written certification that the OSSFs at the Site are in compliance with 30 TEX. ADMIN. CODE ch. 285. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

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

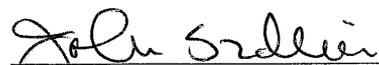
receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Valenzuela 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. Valenzuela, or three days after the date on which the Commission mails notice of the Order to Mr. Valenzuela, 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 1/21/2008

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, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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


Signature

Date 12-03-07

Name (Printed or typed)
Authorized Representative of
Enrique Valenzuela

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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