

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0898-OSI-E **TCEQ ID:** RN103306254 **CASE NO.:** 33743
RESPONDENT NAME: Billy W. Askins

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2331 Farm-to-Market Road 2667, Timpson, Shelby County</p> <p>TYPE OF OPERATION: On-site sewage facility installation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 5, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Billy Askins, Owner/Manager, P.O. Box 839, Timpson, Texas 75975 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 3, 2007</p> <p>Date of NOV/NOE Relating to this Case: April 4, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p>WATER</p> <p>Failed to hold an on-site sewage facility (OSSF) installer license prior to installing an OSSF. Specifically, Mr. Askins installed an OSSF at 2331 Farm-to-Market Road 2667 in Timpson, Shelby County, Texas without holding an OSSF license [30 TEX. ADMIN. CODE §§ 285.50(b) and 30.5(a), and TEX. WATER CODE § 37.003].</p>	<p>Total Assessed: \$750</p> <p>Total Deferred: \$150 <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: \$600</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 installing, maintaining OSSFs or performing any other OSSF related activities until properly licensed; and</p> <p>b. Within 15 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): WG0010374



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

DATES	Assigned	4-Jun-2007	Screening	7-Jun-2007	EPA Due	
	PCW	7-Jun-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Billy W. Askins		
Reg. Ent. Ref. No.	RN103306254		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33743	No. of Violations	1	
Docket No.	2007-0898-OSI-E	Order Type	1660	
Media Program(s)	All Occupational Licenses	Enf. Coordinator	Rajesh Acharya	
Multi-Media		EC's Team	EnforcementTeam 6	
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 Subtotals 2, 3, & 7

20% Enhancement

Notes

Culpability Subtotal 4

No 0% Enhancement

Notes

Good Faith Effort to Comply Subtotal 5

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A X (mark with x)

Notes

Total EB Amounts 0% Enhancement* Subtotal 6

Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Adjustment

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

20% Reduction

Notes

PAYABLE PENALTY

Screening Date 7-Jun-2007

Docket No. 2007-0898-OSI-E

PCW

Respondent Billy W. Askins

Policy Revision 2 (September 2002)

Case ID No. 33743

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN103306254

Media [Statute] All Occupational Licenses

Enf. Coordinator Rajesh Acharya

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)	1	20%
	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) 20%

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

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one prior 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Economic Benefit Worksheet

Respondent Billy W. Askins
Case ID No. 33743
Reg. Ent. Reference No. RN103306254
Media All Occupational Licenses
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				0.0	\$0	n/a	\$0
Other (as needed)	\$300	3-Apr-2007	3-Jan-2008	0.8	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to obtain a valid OSSF license. Date required is the date of the investigation and final date is the estimated 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

\$300

TOTAL

\$11

Compliance History

Customer/Respondent/Owner-Operator:	CN601826860	ASKINS, BILLY W	Classification:	Rating:
Regulated Entity:	RN103306254	ASKINS, BILLY W	Classification:	Site Rating:
ID Number(s):	WATER LICENSING LICENSE		WG0010374	
Location:	1070 County Road 4778, Timpson, Texas 75975-3084			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	June 07, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 07, 2002 to June 07, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Rajesh Acharya		Phone:	(512) 239-0577

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 Effective Date: 04/26/2007 ADMINORDER 2007-0165-PWS-E
 - Classification: Major
 - Citation: 30 TAC Chapter 30, SubChapter A 30.5(a)
 - Description: Field Citation-Failure to have a valid and current license issued by the TCEQ before operating an applicable public water supply.

- 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 10/17/2006 (515018)
 - 2 05/29/2007 (556027)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - N/A

- F. Environmental audits.
 - N/A

- G. Type of environmental management systems (EMSs).
 - N/A

- H. Voluntary on-site compliance assessment dates.
 - N/A

- I. Participation in a voluntary pollution reduction program.
 - N/A

- J. Early compliance.
 - N/A

- Sites Outside of Texas
 - N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BILLY W. ASKINS
RN103306254

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0898-OSI-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Billy W. Askins ("Mr. Askins") under the authority of the TEX. HEALTH & SAFETY CODE ch. 366 and TEX. WATER CODE chs. 7 and 37. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Askins appear before the Commission and together stipulate that:

1. Mr. Askins owns and operates an On-site Sewage Facility ("OSSF") installation business at 1070 County Road 4778 in Timpson, Shelby County, Texas. Mr. Askins installed an OSSF at 2331 Farm-to-Market Road 2667, Timpson, Shelby County, Texas (the "Site").
2. The TCEQ has general authority concerning the location, design, construction, installation, and proper functioning of an OSSF pursuant to TEX. HEALTH & SAFETY CODE ch. 366.
3. The Commission and Mr. Askins agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Askins is subject to the Commission's jurisdiction.
4. Mr. Askins received notice of the violations alleged in Section II ("Allegations") on or about April 9, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Askins of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Hundred Fifty Dollars (\$750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Askins has

paid Six Hundred Dollars (\$600) of the administrative penalty and One Hundred Fifty Dollars (\$150) is deferred contingent upon Mr. Askins' 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. Askins fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Askins 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 Mr. Askins 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. Askins 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 an OSSF installer for the Site, Mr. Askins is alleged to have failed to hold an on-site sewage facility (OSSF) installer license prior to installing an OSSF, in violation of 30 TEX. ADMIN. CODE §§ 285.50(b) and 30.5(a), and TEX. WATER CODE § 37.003, as documented during an investigation conducted on April 3, 2007. Specifically, Mr. Askins installed an OSSF at 2331 Farm-to-Market Road 2667 in Timpson, Shelby County, Texas without holding an OSSF license.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Askins pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Askins' 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: Billy W. Askins, Docket No. 2007-0898-OSI-E" to:

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

2. It is further ordered that Mr. Askins shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease installing, maintaining OSSFs or performing any other OSSF related activities until properly licensed, in accordance with the requirements of 30 TEX. ADMIN. CODE ch. 285 and TEX. WATER CODE ch. 37; and
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

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

Billy W. Askins
DOCKET NO. 2007-0898-OSI-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

12/03/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Billy Askins
Signature

8-28-07
Date

Billy W. ASKINS
Name (Printed or typed)
Authorized Representative of
Billy W. Askins

Mgr
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.

Faint, illegible text at the top of the page, possibly a header or introductory paragraph.

Main body of faint, illegible text, appearing to be several paragraphs of a document.

Lower section of faint, illegible text, possibly a conclusion or a separate section.

Faint text at the bottom of the page, possibly a footer or a signature area.