

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2009-0145-WQ-E TCEQ ID: RN105666952 CASE NO.: 37084**  
**RESPONDENT NAME: JEROME GOMER**

|   |  |  |
|---|--|--|
| <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 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      |

**SITE WHERE VIOLATION(S) OCCURRED:** 407 Saint John Avenue, Nolanville, Bell County

**TYPE OF OPERATION:** Construction site

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** One complaint was received, alleging that severe erosion was occurring in the Plains Subdivision in Nolanville. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** The complainant has not expressed a desire to protest this action or speak at agenda. No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired August 24, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Ms. Heather Brister, Water Enforcement Section, MC R-9, (254) 761-3034

**TCEQ Regional Contact:** Mr. Frank Burlison, Waco Regional Office, MC R-9, (254) 761-3001

**Respondent:** Mr. Jerome Gomer, 1524 Indian Trail, Harker Heights, Texas 76548

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

| VIOLATION SUMMARY CHART:  |  |  |
|---|--|--|
| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
| <p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b><br/>                     October 23, 2008</p> <p><b>Date of Investigation Relating to this Case:</b><br/>                     November 14, 2008</p> <p><b>Date of NOE Relating to this Case:</b><br/>                     January 14, 2009</p> <p><b>Background Facts:</b><br/>                     The EDPRP was filed May 15, 2009. Settlement was achieved and a signed Agreed Order was received on July 2, 2009.</p> <p><b>Current Compliance Status:</b><br/>                     The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p><b>WQ:</b><br/>                     Failed to obtain authorization to discharge storm water associated with construction activity [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p> | <p><b>Total Assessed:</b> \$3,000</p> <p><b>Total Deferred:</b> \$0<br/> <input type="checkbox"/> Expedited Order<br/> <input type="checkbox"/> Financial Inability to Pay<br/> <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b><br/>                     \$600/\$2400</p> <p>The Respondent paid \$600 of the administrative penalty. The remaining amount of \$2,400 shall be payable in 6 monthly payments of \$400 each.</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <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>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, develop and implement a storm water pollutions prevention plan and submit a Notice of Intent and associated application fee to comply with the Construction General Permit requirements for the Site.</li> <li>2. Within 45 days, submit written certification and include supporting documentation to demonstrate compliance with Ordering Provision No. 1.</li> </ol> |



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

|              |          |             |           |             |         |
|--------------|----------|-------------|-----------|-------------|---------|
| <b>DATES</b> | Assigned | 20-Jan-2009 |           |             |         |
|              | PCW      | 30-Apr-2009 | Screening | 27-Jan-2009 | EPA Due |

|  |              |                    |       |  |  |
|--|--------------|--------------------|-------|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |              |                    |       |  |  |
| Respondent                             | Jerome Gomer |                    |       |  |  |
| Reg. Ent. Ref. No.                     | RN105666952  |                    |       |  |  |
| Facility/Site Region                   | 9-Waco       | Major/Minor Source | Minor |  |  |

|                                 |                |                       |                    |  |  |
|---------------------------------|----------------|-----------------------|--------------------|--|--|
| <b>CASE INFORMATION</b>         |                |                       |                    |  |  |
| Enf./Case ID No.                | 37084          | No. of Violations     | 1                  |  |  |
| Docket No.                      | 2009-0145-WQ-E | Order Type            | 1660               |  |  |
| Media Program(s)                | Water Quality  | Government/Non-Profit | Yes                |  |  |
| Multi-Media                     |                | Enf. Coordinator      | Heather Brister    |  |  |
|                                 |                | EC's Team             | Enforcement Team 1 |  |  |
| Admin. Penalty \$ Limit Minimum | \$0            | Maximum               | \$10,000           |  |  |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,000**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No change due to no previous compliance history.

**Culpability** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

|                            |         |
|----------------------------|---------|
| Total EB Amounts           | \$108   |
| Approx. Cost of Compliance | \$2,500 |

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$3,000**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$3,000**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$3,000**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

Notes:

Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$3,000**

**Screening Date** 27-Jan-2009

**Docket No.** 2009-0145-WQ-E

**PCW**

**Respondent** Jerome Gomer

Policy Revision 2 (September 2002)

**Case ID No.** 37084

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN105666952

**Media [Statute]** Water Quality

**Enf. Coordinator** Heather Brister

### 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>   | 0                 | 0%      |
|                               | 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)** 0%

>> **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**

No change due to no previous compliance history.

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

|  |  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
|--|--|---|-------------------------------|----------------------|----------------------|---|----------------------|---|----------------------|----------------------|---|----------------------|--------------|----------------------|----------------------|--|
| <p><b>Screening Date</b> 27-Jan-2009</p> <p><b>Respondent</b> Jerome Gomer</p> <p><b>Case ID No.</b> 37084</p> <p><b>Reg. Ent. Reference No.</b> RN105666952</p> <p><b>Media [Statute]</b> Water Quality</p> <p><b>Enf. Coordinator</b> Heather Brister</p> <p><b>Violation Number</b> <input type="text" value="1"/></p> <p><b>Rule Cite(s)</b> <input type="text" value="30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)"/></p> <p><b>Violation Description</b> <input type="text" value="Failed to obtain authorization to discharge storm water associated with construction activity, as documented during an investigation conducted on November 14, 2008. Specifically, the investigator observed that the construction project had nearly been completed; however, a permit had not yet been obtained."/></p>  | <p style="text-align: right;"><b>Docket No.</b> 2009-0145-WQ-E</p> <p style="text-align: right;"><b>PCW</b></p> <p style="text-align: right;"><small>Policy Revision 2 (September 2002)</small></p> <p style="text-align: right;"><small>PCW Revision October 30, 2008</small></p> |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <b>Base Penalty</b> <input type="text" value="\$10,000"/>  |  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <b>&gt;&gt; Environmental, Property and Human Health Matrix</b>  |  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <p><b>OR</b></p> <table border="1" style="margin-left: 20px;"> <tr> <td></td> <td style="text-align: center;"><b>Harm</b></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table> <p style="margin-left: 100px;"><b>Percent</b> <input type="text" value="0%"/></p>  |  | <b>Harm</b>                               |                               |                      | Major                | Minor                                     | Release              | <input type="text"/>                      | <input type="text"/> | Actual               | <input type="text"/>                      | <input type="text"/> | Potential    | <input type="text"/> | <input type="text"/> |  |
|  | <b>Harm</b>  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
|  | Major  | Minor                                     |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| Release  | <input type="text"/>   | <input type="text"/>                      |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| Actual   | <input type="text"/>   | <input type="text"/>                      |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| Potential  | <input type="text"/>   | <input type="text"/>                      |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <b>&gt;&gt; Programmatic Matrix</b>  |  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <table border="1" style="margin-left: 20px;"> <tr> <td></td> <td style="text-align: center;"><b>Falsification</b></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input checked="" type="text" value="x"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table> <p style="margin-left: 100px;"><b>Percent</b> <input type="text" value="10%"/></p> <p><b>Matrix Notes</b> <input type="text" value="100% of the rule requirement was not met."/></p>   |  | <b>Falsification</b>                      | Major                         | Moderate             | Minor                |   | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> |   |                      |              |                      |                      |  |
|  | <b>Falsification</b>   | Major                                     | Moderate                      | Minor                |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
|  | <input type="text"/>   | <input checked="" type="text" value="x"/> | <input type="text"/>          | <input type="text"/> |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <b>Adjustment</b> <input type="text" value="\$9,000"/>   |  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <input type="text" value="\$1,000"/>   |  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <b>Violation Events</b>  |  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <p><b>Number of Violation Events</b> <input type="text" value="3"/> <b>Number of violation days</b> <input type="text" value="74"/></p> <p><i>mark only one with an x</i></p> <table border="1" style="margin-left: 20px;"> <tr><td>daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>weekly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>monthly</td><td style="text-align: center;"><input checked="" type="text" value="x"/></td></tr> <tr><td>quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table> <p style="margin-left: 100px;"><b>Violation Base Penalty</b> <input type="text" value="\$3,000"/></p> <p style="margin-left: 20px;"><input type="text" value="Three monthly events are recommended from the date of the investigation (November 14, 2008) to the date of screening (January 27, 2009)."/></p> | daily  | <input type="text"/>                      | weekly                        | <input type="text"/> | monthly              | <input checked="" type="text" value="x"/> | quarterly            | <input type="text"/>                      | semiannual           | <input type="text"/> | annual                                    | <input type="text"/> | single event | <input type="text"/> |                      |  |
| daily  | <input type="text"/>   |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| weekly   | <input type="text"/>   |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| monthly  | <input checked="" type="text" value="x"/>  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| quarterly  | <input type="text"/>   |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| semiannual   | <input type="text"/>   |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| annual   | <input type="text"/>   |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| single event   | <input type="text"/>   |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <b>Good Faith Efforts to Comply</b> <input type="text" value="0.0% Reduction"/> <input type="text" value="\$0"/>   |  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <table border="1" style="margin-left: 20px;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;"><input checked="" type="text" value="x"/></td> <td style="text-align: center;">(mark with x)</td> </tr> </table> <p><b>Notes</b> <input type="text" value="The Respondent does not meet the good faith criteria for this violation."/></p> <p style="text-align: right;"><b>Violation Subtotal</b> <input type="text" value="\$3,000"/></p>   |  | Before NOV                                | NOV to EDPRP/Settlement Offer | Extraordinary        | <input type="text"/> | <input type="text"/>                      | Ordinary             | <input type="text"/>                      | <input type="text"/> | N/A                  | <input checked="" type="text" value="x"/> | (mark with x)        |              |                      |                      |  |
|  | Before NOV   | NOV to EDPRP/Settlement Offer             |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| Extraordinary  | <input type="text"/>   | <input type="text"/>                      |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| Ordinary   | <input type="text"/>   | <input type="text"/>                      |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| N/A  | <input checked="" type="text" value="x"/>  | (mark with x)                             |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <b>Economic Benefit (EB) for this violation</b> <input type="text" value="\$108"/> <b>Statutory Limit Test</b>   |  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <b>Estimated EB Amount</b> <input type="text" value="\$108"/>  | <b>Violation Final Penalty Total</b> <input type="text" value="\$3,000"/>  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$3,000"/>  |  |   |                               |                      |                      |   |                      |   |                      |                      |   |                      |              |                      |                      |  |

## Economic Benefit Worksheet

**Respondent** Jerome Gomer  
**Case ID No.** 37084  
**Reg. Ent. Reference No.** RN105666952  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

**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             | \$2,500 | 14-Nov-2008 | 26-Sep-2009 | 0.87 | \$108 | n/a | \$108 |
| Other (as needed)        |         |             |             | 0.00 | \$0   | n/a | \$0   |

**Notes for DELAYED costs**

The estimated cost of preparing and implementing a storm water pollution prevention plan and submittal of a notice of intent. Date required is the date of investigation and the Final Date is the anticipated 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**

Approx. Cost of Compliance

\$2,500

**TOTAL**

\$108

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603434317 GOMER, JEROME Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN105666952 THE PLAINS SUBDIVISION Classification: AVERAGE BY Site Rating: 3.01  
DEFAULT

ID Number(s):

Location: 407 ST JOHN AVE, NOLANVILLE, BELL COUNTY, TEXAS

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: January 26, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 26, 2004 to January 26, 2009

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

Name: Heather Brister Phone: 254/761-3034

## 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.) 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  
JEROME GOMER,  
RN105666952

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-0145-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 Jerome Gomer ("the Respondent") under the authority of TEX. WATER CODE § 7.054 and chs. 7 and 26, 30 TEX. ADMIN. CODE chs. 70 and 281, and 40 CODE OF FEDERAL REGULATIONS ("C.F.R.") pt. 122. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Gomer appear before the Commission and together stipulate that:

1. Mr. Gomer owns and operates a construction site at 407 Saint John Avenue, in Nolanville, Bell County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.103 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Gomer agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Gomer is subject to the Commission's jurisdiction.
4. Mr. Gomer received notice of the violations alleged in Section II ("Allegations") on or about January 19, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Gomer of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of three thousand dollars (\$3,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Gomer paid six hundred dollars (\$600.00) of the administrative penalty. The remaining amount of two thousand four hundred dollars (\$2,400.00) of the administrative penalty shall be payable in six monthly payments of four hundred dollars (\$400.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Gomer fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Mr. Gomer's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Gomer to timely and satisfactorily comply with all of 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. Gomer 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. Gomer 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

During an investigation conducted on November 14, 2008, a TCEQ Waco Regional Office investigator documented that Mr. Gomer violated 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c) by failing to obtain authorization to discharge storm water associated with construction activity. Specifically, the investigator observed that the construction project had nearly been completed; however, a permit had not yet been obtained.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Gomer pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Gomer'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Jerome Gomer, Docket No. 2009-0145-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. Mr. Gomer shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, Mr. Gomer shall develop and implement a storm water pollution prevention plan and submit a Notice of Intent and associated application fee to comply with the Construction General Permit requirements for the Site, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c) to:

Storm Water and Pretreatment Team  
Water Quality Division, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - b. Within 45 days after the effective date of the Agreed Order, Mr. Gomer 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

Mr. Gomer shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

Frank Burleson, Water Section, Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Gomer. Mr. Gomer is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Mr. Gomer 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. Gomer's failure to comply is not a violation of this Agreed Order. Mr. Gomer shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Gomer shall notify the Executive Director within seven days after Mr. Gomer becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

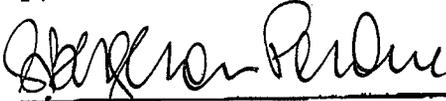
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Gomer shall be made in writing to the Executive Director. Extensions are not effective until Mr. Gomer 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. Gomer 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Gomer, or three days after the date on which the Commission mails notice of the Order to Mr. Gomer, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Jerome Gomer  
Docket No. 2009-0145-WQ-E  
Page 6

### SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/20/09

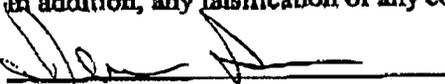
Date

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

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

- A negative impact on Mr. Gomer's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Gomer;
- 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 Mr. Gomer;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Gomer; and
- TCEQ seeking other relief as authorized by law.

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



Signature

7-2-09

Date

Jerome Gomer

Name (Printed or typed)

owner

Title

Authorized representative of  
Jerome Gomer