

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0429-AIR-E TCEQ ID RN104918610 CASE NO.: 37349
RESPONDENT NAME: JIMMY P. GRADY DBA ALL AMERICAN CROSS TIE

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 checked="" 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 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: 26062 US Highway 82, Sherman, Grayson County

TYPE OF OPERATION: landscape material and equipment yard

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired January 18, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Tammy Mitchell, Litigation Division, MC 175, (512) 239-3400
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 169, (512) 239-6933

TCEQ Regional Contact: Ms. Alyssa Taylor, DFW Regional Office, (817) 588-5828

Respondent: Mr. Jimmy P. Grady, Owner, All American Cross Tie, 26062 US Highway 82, Sherman, Texas 75092

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

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 23, 2009</p> <p>Date of NOE Relating to this Case: March 9, 2009</p> <p>Background Facts: The case was referred to the Litigation Division on August 4, 2009. The EDPRP was filed on August 31, 2009. Settlement was achieved and the agreed order was signed on November 12, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>AIR: Failed to comply with the general prohibition on outdoor burning [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$1,450</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Off-set</p> <p>Total Paid/Due to General Revenue: \$111/\$1,339</p> <p>The Respondent has paid \$111 of the administrative penalty. The remaining amount of \$1,339 of the administrative penalty shall be payable in 13 monthly payments of \$103 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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 Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days, implement appropriate measures to prevent the reoccurrence of unauthorized fires; and 2. Within 45 days, submit written certification to demonstrate compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	9-Mar-2009			
	PCW	27-Jul-2009	Screening	23-Mar-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Jimmy P. Grady dba All American Cross Tie				
Reg. Ent. Ref. No.	RN104918610				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	37349	No. of Violations	1		
Docket No.	2009-0429-AIR-E	Order Type	1660		
Media Program(s)	Air	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Clinton Sims		
		EC's Team	Enforcement Team 7		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	45.0% Enhancement	Subtotals 2, 3, & 7	\$450
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Notes: Enhancement due to Poor Performer Classification, Repeat Violator status, and two NOV's for same or similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$35
 Approx. Cost of Compliance: \$500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,450
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$1,450

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,450
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DEFERRAL		Reduction	Adjustment	\$0
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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	\$1,450
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Screening Date 23-Mar-2009

Docket No. 2009-0429-AIR-E

PCW

Respondent Jimmy P. Grady dba All American Cross Tie

Policy Revision 2 (September 2002)

Case ID No. 37349

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104918610

Media [Statute] Air

Enf. Coordinator Clinton Sims

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)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 10%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement due to Poor Performer Classification, Repeat Violator status, and two NOVs for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 23-Mar-2009 Docket No. 2009-0429-AIR-E PCW

Respondent Jimmy P. Grady dba All American Cross Tie
Case ID No. 37349
Reg. Ent. Reference No. RN104918610
Media [Statute] Air
Enf. Coordinator Clinton Sims

Policy Revision 2 (September 2002)
PCW Revision October 30, 2008

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to comply with the general prohibition of outdoor burning, as documented during an investigation conducted on February 23, 2009. Specifically, the Respondent failed to prevent a fire from creosote-treated cross ties and miscellaneous debris on July 8, 2008

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (10%). Includes 'OR' label.

>> Programmatic Matrix

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

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 28 Number of violation days

Frequency selection table: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$35 Violation Final Penalty Total \$1,450

This violation Final Assessed Penalty (adjusted for limits) \$1,450

Economic Benefit Worksheet

Respondent Jimmy P. Grady dba All American Cross Tie

Case ID No. 37349

Reg. Ent. Reference No. RN104918610

Media Air

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				0.00	\$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	\$500	8-Jul-2008	4-Dec-2009	1.41	\$35	n/a	\$35
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to prevent fires. The Date Required is the violation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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 \$500

TOTAL \$35

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603000878	GRADY, JIMMY P	Classification: POOR	Rating: 173.67
Regulated Entity:	RN104918610	ALL AMERICAN CROSS TIE	Classification: POOR	Site Rating: 173.67
ID Number(s):				
Location:	26062 US HIGHWAY 82, SHERMAN, TX, 75092			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	April 22, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 22, 2004 to April 22, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Clinton Sims</u>	Phone:	<u>239 - 6933</u>	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Grady, Jimmy P
4. If Yes, who was/were the prior owner(s)/operator(s) ? American Services Company, Inc.
5. When did the change(s) in owner or operator occur? 03/31/2006
6. Rating Date: 9/1/2008 **Repeat Violator: YES**

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/25/2006	(440122)
2	09/25/2006	(510067)
3	06/05/2007	(555848)
4	03/06/2009	(736567)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/26/2006	(440122)
Self Report?	NO
Classification:	Major
Citation:	30 TAC Chapter 111, SubChapter B 111.201
	5C THC Chapter 382, SubChapter D 382.085(b)
Description:	Failure to comply with the general prohibition on outdoor burning within the State of Texas as required by Title 30 of the Texas Administrative Code (TAC) 111.201 by not meeting an exception as provided in 30 TAC 111.205 through 111.215.
Self Report?	NO
Classification:	Major
Citation:	30 TAC Chapter 327 327.5
	30 TAC Chapter 330, SubChapter A 330.5(a)
Description:	Failure to conduct appropriate site remediation and cleanup after fire in treated wood storage area.
Date: 09/21/2006	(510067)
Self Report?	NO
Classification:	Major
Citation:	30 TAC Chapter 111, SubChapter B 111.201
	5C THC Chapter 382, SubChapter D 382.085(b)
Description:	Failure to comply with the general prohibition on outdoor burning within the State of Texas as required by Title 30 of the Texas Administrative Code (TAC) 111.201 by not meeting an exception as provided in 30 TAC 111.205 through 111.215.
Self Report?	NO
Classification:	Major
Citation:	30 TAC Chapter 327 327.5
	30 TAC Chapter 330, SubChapter A 330.5(a)
Description:	Failure to conduct appropriate site remediation and cleanup after fire in treated wood storage area.
Self Report?	NO
Classification:	Major
Citation:	30 TAC Chapter 328, SubChapter A 328.5
Description:	Failure to provide initial Notice of Intent to Operate an MSW Recycling Operation or other notification to the Agency.
Self Report?	NO
Classification:	Moderate
Citation:	30 TAC Chapter 330, SubChapter A 330.15
	TWC Chapter 26 26.121
Description:	Failure to prevent the discharge of municipal solid waste in the form of brush, wood debris and other materials on surface soils at site.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.62
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11

Description: Failure to conduct adequate Hazardous Waste Determination on 55-gallon drums and other containers accumulated at the site.

- 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	§	BEFORE THE
AN ENFORCEMENT ACTION	§	
AGAINST JIMMY P. GRADY DBA	§	TEXAS COMMISSION ON
ALL AMERICAN CROSS TIE;	§	
RN104918610	§	ENVIRONMENTAL QUALITY

AGREED ORDER
TCEQ DOCKET NO. 2009-0429-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jimmy P. Grady dba All American Cross Tie ("Mr. Grady") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Grady appear before the Commission and together stipulate that:

1. Mr. Grady owns and operates a landscape material and equipment yard located at 26062 US Highway 82, Sherman, Grayson 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 § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Mr. Grady agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Grady is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Grady of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of one thousand four hundred fifty dollars (\$1,450.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Grady paid one hundred eleven dollars (\$111.00) of the administrative penalty. The remaining amount of one thousand three hundred thirty-nine dollars (\$1,339.00) of the administrative penalty shall be payable in 13 monthly payments of one hundred three dollars (\$103.00) each. 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. Grady 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. Grady's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Grady to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Mr. Grady agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. 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. Grady has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on February 23, 2009, a TCEQ Dallas-Fort Worth Regional Office investigator documented that Mr. Grady violated 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to comply with the general prohibition on outdoor burning. Specifically, Mr. Grady failed to prevent a fire from creosote-treated cross ties and miscellaneous debris on July 8, 2008.
2. Mr. Grady received notice of the violations on or about March 14, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Grady pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Mr. Grady'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: Jimmy P. Grady dba All American Cross Tie, Docket No. 2009-0429-AIR-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. Grady shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Mr. Grady shall implement appropriate measures to prevent the reoccurrence of unauthorized fires; and
 - b. Within 45 days after the effective date of this Agreed Order, Mr. Grady shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware

that there are significant penalties for submitting false information, including the possibility of fines 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:

Alyssa Taylor, Air Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Grady. Mr. Grady 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. Grady 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. Grady's failure to comply is not a violation of this Agreed Order. Mr. Grady shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Grady shall notify the Executive Director within seven days after Mr. Grady 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. Grady shall be made in writing to the Executive Director. Extensions are not effective until Mr. Grady receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

Jimmy P. Grady dba All American Cross Tie

Docket No. 2009-0429-AIR-E

Page 5

6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Grady 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 Agreed Order to Mr. Grady, or three days after the date on which the Commission mails notice of this Agreed Order to Mr. Grady, 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

12/22/09

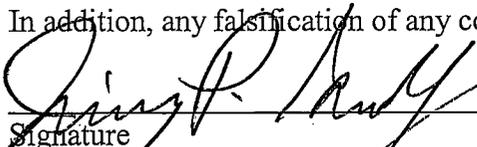
Date

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

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



Signature

11-12-09

Date

Jimmy P. Grady

Name (Printed or typed)

Owner

Title

Authorized representative of
Jimmie P. Grady dba All American Cross Tie