

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1293-MLM-E **TCEQ ID:** RN105750541 **CASE NO.:** 38131
RESPONDENT NAME: The J.B. Allen Company

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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Allen Plumbing & Supply Company, 2005 South Highway 83, Dimmit County</p> <p>TYPE OF OPERATION: Sludge transporter facility</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 January 25, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, P.G., Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. James Brent Allen, Owner, The J.B. Allen Company, 2005 South Highway 83, Crystal City, Texas 78839 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: June 8, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 28, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to apply for and receive a registration to transport sewage sludge or chemical toilet waste prior to commencing operations. Specifically, the Respondent transported chemical toilet waste contained in portable toilets without having a registration [30 TEX. ADMIN. CODE § 312.142(a)].</p> <p>WASTE</p> <p>2) Failure to prevent unauthorized disposal of municipal solid waste. Specifically, chemical toilet waste was disposed at the Facility which is not authorized by permit or registration to receive the waste [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p>Total Assessed: \$1,895</p> <p>Total Deferred: \$379 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,516</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:</p> <p>a. Submitted an application and received Sludge Transportation Registration Number 24139 on June 16, 2009; and</p> <p>b. Ceased unauthorized disposal of chemical toilet waste and plowed 50 bags of caustic lime into the soil on June 16, 2009 to neutralize waste which had been spread on the ground at the Facility.</p>

Additional ID No(s): Registration Number 24139



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	3-Aug-2009	Screening	12-Aug-2009	EPA Due	
	PCW	13-Aug-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	The J.B. Allen Company
Reg. Ent. Ref. No.	RN105750541
Facility/Site Region	16-Laredo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	08131	No. of Violations	2
Docket No.	2009-1293-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Thomas Jecha, P.G.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$2,000**

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 compliance history.

Culpability No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$500**

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

Total EB Amounts \$395
Approx. Cost of Compliance \$960
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$1,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE 26.3% *Adjustment* **\$395**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended to recover the avoided costs associated with the economic benefit of violation No. 2.

Final Penalty Amount **\$1,895**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$1,895**

DEFERRAL 20.0% Reduction *Adjustment* **-\$379**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$1,516**

Screening Date: 12-Aug-2009	Docket No.: 2009-1293-MLM-E	PCW
Respondent: The J.B. Allen Company	<i>Policy Revision 2 (September 2002)</i>	
Case ID No.: 38131	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No.: RN105750541		
Media [Statute]: Municipal Solid Waste		
Enf. Coordinator: Thomas Jecha, P.G.		

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 compliance history.

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

Screening Date: 12-Aug-2009 **Docket No.:** 2009-1293-MLM-E **PCW**
Respondent: The J.B. Allen Company *Policy Revision 2 (September 2002)*
Case ID No.: 38131 *PCW Revision October 30, 2008*
Reg. Ent. Reference No.: RN105750541
Media [Statute]: Municipal Solid Waste
Enf. Coordinator: Thomas Jecha, P.G.

Violation Number: 1
Rule Cite(s): 30 Tex. Admin. Code § 312.142(a)
Violation Description: Failed to apply for and receive a registration to transport sewage sludge or chemical toilet waste prior to commencing operations. Specifically, the Respondent transported chemical toilet waste contained in portable toilets without having a registration.
Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	X			10%

Matrix Notes: 100% of the rule requirement was not met.
Adjustment: \$9,000

Violation Events **Number of Violation Events:** 1 **Number of violation days:** 8 **Violation Base Penalty:** \$1,000

Frequency:

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Notes: One monthly event is recommended from the June 8, 2009 investigation until compliance was achieved on June 16, 2009.

Good Faith Efforts to Comply **25.0% Reduction** **\$250**

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent received a sludge transportation registration number on June 16, 2009.
Violation Subtotal: \$750

Economic Benefit (EB) for this violation: **Statutory Limit Test**
Estimated EB Amount: \$0 **Violation Final Penalty Total:** \$948
This violation Final Assessed Penalty (adjusted for limits): \$948

Economic Benefit Worksheet

Respondent: The J.B. Allen Company
Case ID No.: 38131
Reg. Ent. Reference No.: RN105750541
Media: Municipal Solid Waste
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$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				0.00	\$0	n/a	\$0
Other (as needed)	\$200	8-Jun-2009	16-Jun-2009	0.02	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to complete and submit application forms for a sludge transportation registration. The date required is the investigation date and the final date is the date the registration was issued.

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

\$200

TOTAL

\$0

Screening Date: 12-Aug-2009	Docket No.: 2009-1293-MLM-E	PCW		
Respondent: The J.B. Allen Company		<small>Policy Revision 2 (September 2002)</small>		
Case ID No.: 38131		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No.: RN105750541				
Media [Statute]: Municipal Solid Waste				
Enf. Coordinator: Thomas Jecha, P.G.				
Violation Number:	2			
Rule Cite(s):	30 Tex. Admin. Code § 330.15(c)			
Violation Description:	Failed to prevent unauthorized disposal of municipal solid waste. Specifically, chemical toilet waste was disposed at the Facility which is not authorized by permit or registration to receive the waste.			
Base Penalty:		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			Percent <input type="text" value="10%"/>	
>> Programmatic Matrix				
			Percent <input type="text" value="0%"/>	
Matrix Notes:	Human health and the environment have been exposed to an insignificant amount of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment:			\$9,000	
			\$1,000	
Violation Events				
Number of Violation Events: <input type="text" value="1"/>		Number of violation days: <input type="text" value="8"/>		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty <input type="text" value="\$1,000"/>	
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
One quarterly event is recommended from the June 8, 2009 investigation until compliance was achieved on July 16, 2009.				
Good Faith Efforts to Comply		25.0% Reduction	\$250	
		<small>Before NOV NOV to EDP/RP/Settlement Offer</small>		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
N/A	<input type="checkbox"/>	<small>(mark with x)</small>		
Notes:	Compliance was achieved on June 16, 2009.			
Violation Subtotal:			\$750	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount:	<input type="text" value="\$395"/>	Violation Final Penalty Total:	<input type="text" value="\$948"/>	
This violation Final Assessed Penalty (adjusted for limits):			<input type="text" value="\$948"/>	

Economic Benefit Worksheet

Respondent: The J.B. Allen Company
Case ID No.: 38131
Reg. Ent. Reference No.: RN105750541
Media: Municipal Solid Waste
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description: No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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				0.00	\$0	n/a	\$0
Other (as needed)	\$400	8-Jun-2009	16-Jun-2009	0.02	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to plow caustic lime into the soil to neutralize the chemical toilet waste. The date required is the investigation date and the final date is the date compliance was achieved.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$360	8-Jun-2008	8-Jun-2009	1.92	\$35	\$360	\$395
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to properly dispose of chemical toilet waste for approximately 18 portable toilets found at the Facility during the investigation, at 20 dollars per unit. The date required is one year prior to the investigation date and the final date is the date of the investigation.

Approx. Cost of Compliance

\$760

TOTAL

\$395

Compliance History Report

Customer/Respondent/Owner-Operator: CN603495920 THE J.B. ALLEN COMPANY Classification: Rating:
Regulated Entity: RN105750541 ALLEN PLUMBING & SUPPLY CO Classification: Site Rating:
ID Number(s): SLUDGE REGISTRATION 24139
Location: 2005 S HIGHWAY 83, DIMMIT CO. TX
TCEQ Region: REGION 16 - LAREDO
Date Compliance History Prepared: August 11, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 11, 2004 to August 11, 2009

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

Name: Thomas Jecha Phone: 239 - 2576

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? NO
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

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 07/28/2009 (762583)
 - 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
THE J.B. ALLEN COMPANY
RN105750541**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1293-MLM-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 The J.B. Allen Company ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a sludge transporter facility at 2005 South Highway 83, Dimmit County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
4. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 2, 2009.
6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

7. An administrative penalty in the amount of One Thousand Eight Hundred Ninety-Five Dollars (\$1,895) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Five Hundred Sixteen Dollars (\$1,516) of the administrative penalty and Three Hundred Seventy-Nine Dollars (\$379) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
8. 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.
9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. Submitted an application and received Sludge Transportation Registration Number 24139 on June 16, 2009; and
 - b. Ceased unauthorized disposal of chemical toilet waste and plowed 50 bags of caustic lime into the soil on June 16, 2009 to neutralize waste which had been spread on the ground at the Facility.
11. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
12. 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.
13. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to apply for and receive a registration to transport sewage sludge or chemical toilet waste prior to commencing operations, in violation of 30 TEX. ADMIN. CODE § 312.142(a), as documented during an investigation conducted on June 8, 2009. Specifically, the Respondent transported chemical toilet waste contained in portable toilets without having a registration.

2. Failed to prevent unauthorized disposal of municipal solid waste, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on June 8, 2009. Specifically, chemical toilet waste was disposed at the Facility which is not authorized by permit or registration to receive the waste.

III. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: The J.B. Allen Company, Docket No. 2009-1293-MLM-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John B. Allen
For the Executive Director

Date 1/19/2010

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.

James Brent Allen
Signature

12-1-09
Date

James Brent Allen
Name (Printed or typed)
Authorized Representative of
The J.B. Allen Company

Officer
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.