

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1662-OSS-E **TCEQ ID:** RN105775464 **CASE NO.:** 38525

**RESPONDENT NAME:** Samuel C. Mullin

|  |   |  |
|--|---|--|
| <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 AND 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 checked="" type="checkbox"/> ON-SITE SEWAGE DISPOSAL | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE   | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 6138 Highway 8, Desdemona, Eastland County</p> <p><b>TYPE OF OPERATION:</b> On-site sewage facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on July 9, 2009, alleging there was an unauthorized on-site sewage facility with lines within 10 feet from a well, and that it was on land less than an acre. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received but the complainant has not expressed the design to protest this action or speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 22, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Laurie Haves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Mr. Samuel C. Mullin, Owner, Post Office Box 7, Desdemona, Texas 76445<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

| VIOLATION SUMMARY CHART:  |   |   |
|---|---|---|
| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
| <p><b>Type of Investigation:</b><br/> <input checked="" type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b><br/>                     July 9, 2009</p> <p><b>Date of Investigation Relating to this Case:</b> July 30, 2009</p> <p><b>Date of NOE Relating to this Case:</b> July 31, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failure to obtain authorization to construct an on-site sewage facility ("OSSF"). Specifically, the Respondent constructed and installed an OSSF on his own property without first obtaining the required authorization [30 TEX. ADMIN. CODE § 285.3(b)(1)].</p> | <p><b>Total Assessed:</b> \$500</p> <p><b>Total Deferred:</b> \$100<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$400</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input 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>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that on September 30, 2009, the Respondent submitted a permit application for the OSSF and paid the application fee.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a) Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;</p> <p>b) Within 60 days after the effective date of this Agreed Order, either submit documentation that a permit has been obtained for the OSSF, or submit documentation that operation of the OSSF has ceased and the OSSF has been properly removed or abandoned; and</p> <p>c) Within 75 days after the effective date of this Agreed Order, submit written certification and include photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b.</p> |

Additional ID No(s): None



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

## TCEQ

|       |          |             |           |             |         |  |
|-------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 21-Sep-2009 | Screening | 28-Sep-2009 | EPA Due |  |
|       | PCW      | 7-Oct-2009  |           |             |         |  |

|  |                  |                    |       |
|--|------------------|--------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                  |                    |       |
| Respondent                             | Samuel C. Mullin |                    |       |
| Reg. Ent. Ref. No.                     | RN105775464      |                    |       |
| Facility/Site Region                   | 3-Abilene        | Major/Minor Source | Minor |

|                                 |                         |                       |                    |
|---------------------------------|-------------------------|-----------------------|--------------------|
| <b>CASE INFORMATION</b>         |                         |                       |                    |
| Enf./Case ID No.                | 38525                   | No. of Violations     | 1                  |
| Docket No.                      | 2009-1662-OSS-E         | Order Type            | 1660               |
| Media Program(s)                | On-Site Sewage Disposal | Government/Non-Profit | No                 |
| Multi-Media                     |                         | Enf. Coordinator      | Lanae Foard        |
|                                 |                         | EC's Team             | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0                     | Maximum               | \$2,500            |

## Penalty Calculation Section

|   |                   |       |
|---|-------------------|-------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$500 |
|---|-------------------|-------|

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

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

|                           |                  |                                |     |
|---------------------------|------------------|--------------------------------|-----|
| <b>Compliance History</b> | 0.0% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | \$0 |
|---------------------------|------------------|--------------------------------|-----|

Notes: No adjustment is recommended. There are no previous violations.

|                    |    |                  |                   |     |
|--------------------|----|------------------|-------------------|-----|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |     |
|--|-------------------|-----|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | \$0 |
|--|-------------------|-----|

|                         |                  |                   |     |
|-------------------------|------------------|-------------------|-----|
| <b>Economic Benefit</b> | 0.0% Enhancement | <b>Subtotal 6</b> | \$0 |
|-------------------------|------------------|-------------------|-----|

|                            |         |                                   |
|----------------------------|---------|-----------------------------------|
| Total EB Amounts           | \$296   | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$5,000 |                                   |

|                             |                       |       |
|-----------------------------|-----------------------|-------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$500 |
|-----------------------------|-----------------------|-------|

|   |      |                   |     |
|---|------|-------------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$500

|                                   |                               |       |
|-----------------------------------|-------------------------------|-------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$500 |
|-----------------------------------|-------------------------------|-------|

|                 |                 |                   |        |
|-----------------|-----------------|-------------------|--------|
| <b>DEFERRAL</b> | 20.0% Reduction | <b>Adjustment</b> | -\$100 |
|-----------------|-----------------|-------------------|--------|

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

Notes:

Deferral offered for expedited settlement.

|                        |       |
|------------------------|-------|
| <b>PAYABLE PENALTY</b> | \$400 |
|------------------------|-------|

Screening Date 28-Sep-2009

Docket No. 2009-1662-OSS-E

PCW

Respondent Samuel C. Mullin

Policy Revision 2 (September 2002)

Case ID No. 38525

PCW Revision October 30, 2003

Reg. Ent. Reference No. RN105775464

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Lanae Foard

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 0                 | 0%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 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%      |

Please Enter Yes or No

|       |   |    |    |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more  | No | 0% |
|       | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program       | No | 0% |
|       | Participation in a voluntary pollution reduction program  | No | 0% |
|       | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 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 adjustment is recommended. There are no previous violations.

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

Screening Date 28-Sep-2009

Docket No. 2009-1662-OSS-E

PGW

Respondent Samuel C. Mullin

Policy Revision 2 (September 2002)

Case ID No. 38525

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105775484

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 285.3(b)(1)

Violation Description

Failed to obtain authorization to construct an on-site sewage facility ("OSSF"). Specifically, the Respondent constructed and installed an OSSF on his own property without first obtaining the required authorization, as documented during an investigation conducted on July 30, 2009.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          |       |

Percent 0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               | x     |          |       |

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 2

60 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      | x |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event |   |

Violation Base Penalty \$500

Two monthly events are recommended from the investigation date (July 30, 2009) to the screening date (September 28, 2009).

Good Faith Efforts to Comply

0.0% Reduction

\$0

|               | Before NOV | NOV to EDRP/Settlement Offer |
|---------------|------------|------------------------------|
| Extraordinary |            |                              |
| Ordinary      |            |                              |
| N/A           | x          | (mark with x)                |

Notes

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$296

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

## Economic Benefit Worksheet

**Respondent** Samuel C. Mullin  
**Case ID No.** 38525  
**Reg. Ent. Reference No.** RN105775464  
**Media** On-Site Sewage Disposal  
**Violation No.** 1

|                  |                       |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0              | 15                    |

|  | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|

Item Description: 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 | \$5,000 | 30-Jul-2009 | 4-Jun-2010 | 0.85 | \$14 | \$282 | \$296 |
| 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)        |         |             |            | 0.00 | \$0  | n/a   | \$0   |

Notes for DELAYED costs: Estimated cost to have an engineer or sanitarian inspect the OSSF and make necessary changes so the OSSF can be permitted. Date required is the date the violation was documented. Final Date is the expected 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 | \$5,000 | <b>TOTAL</b> | \$296 |
|----------------------------|---------|--------------|-------|

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603514894 Samuel C. Mullin Classification: Rating:  
Regulated Entity: RN105775464 6138 HWY 8 Classification: Site Rating:  
ID Number(s):  
Location: 6138 HIGHWAY 8, DESDEMONA, TX, 78445  
TCEQ Region: REGION 03 - ABILENE  
Date Compliance History Prepared: November 06, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: November 06, 2004 to November 06, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Lanae Foard Phone: 512-239-2554

## 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.)  
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  
SAMUEL C. MULLIN  
RN105775464

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-1662-OSS-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Samuel C. Mullin ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 366 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns property with an on-site sewage facility ("OSSF") located at 6138 Highway 8 in Desdemona, Eastland County, Texas (the "Site").
2. The TCEQ has general authority concerning the location, design, construction, installation, and proper functioning of an OSSF pursuant to TEX. HEALTH & SAFETY CODE ch. 366.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 5, 2009.
5. 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.
6. An administrative penalty in the amount of Five Hundred Dollars (\$500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Dollars (\$400) of the administrative penalty and One Hundred Dollars

- (\$100) 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.
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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
  9. The Executive Director recognizes that on September 30, 2009, the Respondent submitted a permit application for the OSSF and paid the application fee.
  10. 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.
  11. 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.
  12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Site, the Respondent is alleged to have failed to obtain authorization to construct an OSSF, in violation of 30 TEX. ADMIN. CODE § 285.3(b)(1), as documented during an investigation conducted on July 30, 2009. Specifically, the Respondent constructed and installed an OSSF on his own property without first obtaining the required authorization.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 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: Samuel C. Mullin, Docket No. 2009-1662-OSS-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;
  - b. Within 60 days after the effective date of this Agreed Order, either submit documentation that a permit has been obtained for the OSSF, or submit documentation that operation of the OSSF has ceased and the OSSF has been properly removed or abandoned; and
  - c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. 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."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
4. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 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.
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 under this Agreed Order.
8. 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.

Samuel C. Mullin  
DOCKET NO. 2009-1662-OSS-E  
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### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Green  
\_\_\_\_\_  
For the Executive Director

2/25/2010  
\_\_\_\_\_  
Date

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

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

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

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

Samuel Mullin  
\_\_\_\_\_  
Signature

2-22-2010  
\_\_\_\_\_  
Date

Samuel Mullin  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Samuel C. Mullin

MANAGER/OWNER  
\_\_\_\_\_  
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.

