

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1144-IWD-E **TCEQ ID:** RN104531959 **CASE NO.:** 37975
RESPONDENT NAME: Organic Residual Reclamation, L.L.C.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input 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: Organic Residual Reclamation, 1303 County Road 319, Dublin, Erath County

TYPE OF OPERATION: Livestock manure composting operation

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: A complaint was received on May 26, 2009, alleging that the Facility's authorization had expired, but the Facility continued to operate. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 5, 2010. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. Paul Fagan, Manager, Organic Residual Reclamation, L.L.C., 1303 County Road 319, Dublin, Texas 76446
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: <input checked="" 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: May 26, 2009</p> <p>Date of Investigation Relating to this Case: May 29 and June 25, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 22 and July 10, 2009 (NOE)</p> <p>Background Facts: This was a complaint and a routine investigation.</p> <p>WATER</p> <p>1) Failure to obtain authorization to discharge wastewater generated from livestock manure compost operations under TCEQ General Permit No. WQG200000. Specifically, authorization to operate under TCEQ General Permit No. WQG200001 expired on February 6, 2009, but the Respondent failed to submit a Notice of Intent ("NOI") to renew authorization [30 TEX ADMIN. CODE § 205.5(c)].</p> <p>2) Failure to prevent trees or woody vegetation from growing within a wastewater retention facility or on an earthen levee or embankment. Specifically, multiple trees and brush were observed growing on the embankment of the Facility's retention control structure ("RCS") [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section C, Operational Requirements No. 5.c].</p> <p>3) Failure to stockpile manure in such a manner to retain runoff on-site. Specifically, stockpiled manure was observed outside the containment berm north and south of the composting area, creating the potential for off-site runoff [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section C, Operational Requirements No. 6.b].</p>	<p>Total Assessed: \$12,000</p> <p>Total Deferred: \$2,400 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$325 (remaining \$9,275 due in 35 monthly payments of \$265 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" 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 has implemented the following corrective measures at the Facility:</p> <p>a. By June 5, 2009, submitted a NOI for coverage under TCEQ General Permit No. WQG200000;</p> <p>b. By July 1, 2009, removed trees and brush from the RCS embankment and installed a rain gauge at the Facility;</p> <p>c. By August 10, 2009, developed and included a closure plan in the Facility's Engineering Report;</p> <p>d. By August 31, 2009, removed and properly disposed of the manure stored outside the containment area; and</p> <p>e. By December 31, 2009, submitted self-reporting forms indicating that no soil samples were collected for the years 2005 through 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, submit documentation that a Texas licensed professional engineer has certified that the retention facility's lining meets criteria to prevent groundwater contamination; and</p> <p>b. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

<p>4) Failure to keep and maintain a rain gauge on-site. Specifically, the investigator observed that there was no rain gauge at the Facility [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section C, Operational Requirements No. 6.g].</p> <p>5) Failure to include a closure plan in the Engineering Report. Specifically, the investigator reviewed the Engineering Report during the investigation and noted that it did not contain a closure plan for the Facility [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section B, Specific Requirements for Evaporation and Irrigation, No. 1.f].</p> <p>6) Failure to obtain certification by a Texas licensed professional engineer that a retention facility lining meets the appropriate criteria to prevent groundwater contamination [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section B, Specific Requirements for Evaporation and Irrigation, No. 3.a.(5)].</p> <p>7) Failure to submit soil sample results for each irrigation field using an approved self-reporting form by March 20th of each year for the previous year's sampling events. Specifically, the investigator documented that soil sample results were not submitted to the TCEQ for the years 2005 through 2008 [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200001, Part III, Section C, Operational Requirements No. 1.f].</p>		
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Additional ID No(s): WQG200008



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ
DATES

Assigned PCW 15-Jul-2009
5-Aug-2009 Screening 20-Jul-2009 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Organic Residual Reclamation, L.L.C.
Reg. Ent. Ref. No. RN104531959
Facility/Site Region 4-Stephenville Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 37975 No. of Violations 6
Docket No. 2009-1144-IWD-E Order Type 1660
Media Program(s) Water Quality Government/Non-Profit No
Multi-Media Enf. Coordinator Evette Alvarado
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 \$9,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5.0% Enhancement Subtotals 2, 3, & 7 \$455

Notes Enhancement recommended due to one NOV with violations same or similar as those cited in this case.

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 \$635

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$174 *Capped at the Total EB \$ Amount
Approx. Cost of Compliance \$10,530

SUM OF SUBTOTALS 1-7 Final Subtotal \$8,920

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$8,920

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$8,920

DEFERRAL 20.0% Reduction Adjustment -\$1,784

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 \$7,136

Screening Date 20-Jul-2009

Docket No. 2009-1144-IWD-E

PCW

Respondent Organic Residual Reclamation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 37975

PCW Revision October 30 2008

Reg. Ent. Reference No. RN104531959

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

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)	1	5%
	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance
History
Notes

Enhancement recommended due to one NOV with violations same or similar as those cited in this case.

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

Screening Date 20-Jul-2009

Docket No. 2009-1144-IWD-E

PCW

Respondent Organic Residual Reclamation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 37975

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104531959

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 306.125(1) and Texas Commission on Environmental Quality ("TCEQ") General Permit No. WQG200008, Part III, Section C, Operational Requirements No. 5.c.

Violation Description Failed to prevent trees or woody vegetation from growing within a wastewater retention facility or on an earthen levee or embankment, as documented during an investigation on June 25, 2009. Specifically, multiple trees and brush were observed growing on the embankment of the Facility's retention control structure ("RCS").

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential			x		

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that do not exceed protective levels as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 25

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the date of the investigation (June 25, 2009) to the date of compliance (July 1, 2009).

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent returned to compliance on July 1, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$800

This violation Final Assessed Penalty (adjusted for limits) \$800

Economic Benefit Worksheet

Respondent Organic Residual Reclamation, L.L.C.
 Case ID No. 37975
 Reg. Ent. Reference No. RN104531959
 Media Water Quality
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 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)	\$0	25-Jun-2009	1-Jul-2009	0.02	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to remove trees and brush from the RCS embankment. The Respondent performed the work himself. Date required is the investigation date. 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 20-Jul-2009

Docket No. 2009-1144-IWD-E

PCW

Respondent Organic Residual Reclamation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 37976

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104531959

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section C, Operational Requirements No. 6 b.

Violation Description Failed to stockpile manure in such a manner to retain runoff on-site, as documented during an investigation on June 25, 2009. Specifically, stockpiled manure was observed outside the containment berm north and south of the composting area, creating the potential for off-site runoff.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment could or will be exposed to significant amounts of pollutants that could exceed protective levels as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 25

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
single event		

Violation Base Penalty \$2,500

One monthly event is recommended from the date of the investigation (June 25, 2009) to the date of screening (July 20, 2009).

Good Faith Efforts to Comply

	10.0% Reduction	
	Before NOV	NOV to ED/PRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

\$250

Notes The Respondent returned to compliance on August 31, 2009.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$83

Violation Final Penalty Total \$2,375

This violation Final Assessed Penalty (adjusted for limits) \$2,375

Economic Benefit Worksheet

Respondent Organic Residual Reclamation, L.L.C.
Case ID No. 37975
Reg. Ent. Reference No. RN104531959
Media Water Quality
Violation No. 2

Percent Interest 5.0
Years of Depreciation 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				0.00	\$0	n/a	\$0
Other (as needed)	\$9,000	25-Jun-2009	31-Aug-2009	0.18	\$83	n/a	\$83

Notes for DELAYED costs

Actual delayed cost to haul all manure stored outside the containment area off-site. Date required is the investigation date. Final date is the date the manure was removed.

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

\$9,000

TOTAL

\$83

Screening Date 20-Jul-2009

Docket No. 2009-1144-IWD-E

PCW

Respondent Organic Residual Reclamation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 37975

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104531959

Media [Statute] Water Quality

Enf. Coordinator Evalte Alvarado

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section C, Operational Requirements No. 6.g.

Violation Description Failed to keep and maintain a rain gauge on-site, as documented during an investigation on June 25, 2009. Specifically, the investigator observed that there was no rain gauge at the Facility

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to have a rain gauge could prevent the Respondent from knowing when to dewater the RCS, creating the potential for unauthorized discharges. Human health or the environment could or will be exposed to insignificant amounts of pollutants that do not exceed protective levels as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 25

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

One single event is recommended based on documentation of the violation during the investigation on June 25, 2009.

Good Faith Efforts to Comply

	25.0% Reduction	\$125
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent returned to compliance on July 1, 2009.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$400

This violation Final Assessed Penalty (adjusted for limits) \$400

Economic Benefit Worksheet

Respondent Organic Residual Reclamation, L.L.C.
Case ID No. 37975
Reg. Ent. Reference No. RN104531959
Media Water Quality
Violation No. 3

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
Equipment	\$30	25-Jun-2009	1-Jul-2009	0.02	\$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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to purchase and install a rain gauge. Date required is the date of the investigation. Final date is the date the gauge was installed.

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	Overtime 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$30

TOTAL

\$0

Screening Date 20-Jul-2009

Docket No. 2009-1144-IWD-E

PCW

Respondent Organic Residual Reclamation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 37975

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104631959

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section B, Specific Requirements for Evaporation and Irrigation, No. 1.f.

Violation Description

Failed to include a closure plan in the Engineering Report, as documented during an investigation on June 25, 2009. Specifically, the investigator reviewed the Engineering Report during the investigation and noted that it did not contain a closure plan for the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
				X	1%

Matrix Notes

At least 70% of the requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 25

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$100

One single event is recommended based on documentation of the violation during the investigation on June 25, 2009.

Good Faith Efforts to Comply

	10.0% Reduction	\$10
	Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes: The Respondent returned to compliance on August 10, 2009.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$95

This violation Final Assessed Penalty (adjusted for limits) \$95

Economic Benefit Worksheet

Respondent Organic Residual Reclamation, L.L.C.
Case ID No. 37975
Reg. Ent. Reference No. RN104531959
Media Water Quality
Violation No. 4

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)	\$300	25-Jun-2009	10-Aug-2009	0.13	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to develop and include a closure plan in the Facility's Engineering Report. Date required is the date of the investigation. Final date is the date the plan was developed and included in the Engineering Report.

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

\$300

TOTAL

\$2

Screening Date 20-Jul-2009
Respondent Organic Residual Reclamation, L.L.C.
Case ID No. 37975
Reg. Ent. Reference No. RN104531959

Docket No. 2009-1144-IWD-E

PCW

Policy Revision 21 September 2002

PCW Revision October 30, 2008

Media [Statute] Water Quality
Enf. Coordinator Evette Alvarado

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section B, Specific Requirements for Evaporation and Irrigation, No. 3.a.(5)

Violation Description Failed to maintain on-site certification by a Texas licensed professional engineer that a retention facility lining meets the appropriate criteria to prevent groundwater contamination, as documented during an investigation on June 25, 2009.

Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 **Number of violation days** 25

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One monthly event is recommended from the date of the investigation (June 25, 2009) to the date of screening (July 20, 2009).

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$51

Statutory Limit Test

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent Organic Residual Reclamation, L.L.C.

Case ID No. 37975

Reg. Ent. Reference No. RN104631959

Media Water Quality

Violation No. 5

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	\$1,000	25-Jun-2009	17-Mar-2010	0.73	\$2	\$48	\$51
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 obtain an engineering certification for the retention facility's liner. Date required is the investigation date. 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

\$1,000

TOTAL

\$51

Screening Date 20-Jul-2009

Docket No. 2009-1144-IWD-E

PCW

Respondent Organic Residual Reclamation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 37975

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104531959

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ General Permit No. WQG200001, Part III, Section C, Operational Requirements No. 1.f.

Violation Description

Failed to submit soil sample results for each irrigation field using an approved self-reporting form by March 20th of each year for the previous year's sampling events, as documented during an investigation on June 25, 2009. Specifically, the investigator documented that soil sample results were not submitted to the TCEQ for the years 2005 through 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 Number of violation days 25

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$4,000

Four single events are recommended (one event for each missing report).

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 \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$39

Violation Final Penalty Total \$4,200

This violation Final Assessed Penalty (adjusted for limits) \$4,200

Economic Benefit Worksheet

Respondent Organic Residual Reclamation, L.L.C.
Case ID No. 37975
Reg. Ent. Reference No. RN104531959
Media Water Quality
Violation No. 6

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				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	20-Mar-2006	15-Feb-2010	3.81	\$39	n/a	\$39

Notes for DELAYED costs

Estimated delayed cost to submit either soil sampling results or a self-reporting form indicating that no samples were collected. Date required is the date that results for calendar year 2005 were due. 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

\$200

TOTAL

\$39



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	6-Jul-2009	Screening	20-Jul-2009	EPA Due	
	PCW	5-Aug-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Organic Residual Reclamation, L.L.C.
Reg. Ent. Ref. No.	RN104531959
Facility/Site Region	4-Stephenville
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37975	No. of Violations	1
Docket No.	2009-1144-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Evette Alvarado
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 20-Jul-2009

Docket No. 2009-1144-IWD-E

PCW

Respondent Organic Residual Reclamation, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 37975

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104531959

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

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	1	2%
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) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement recommended for one NOV with non-similar violations.

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

Screening Date 20-Jul-2009	Docket No. 2009-1144-IWD-E	PCW	
Respondent Organic Residual Reclamation, L.L.C.	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37975	<small>PCW Revision October 30, 2009</small>		
Reg. Ent. Reference No. RN104531959			
Media [Statute] Water Quality			
Enf. Coordinator Evette Alvarado			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 205.5(c)		
Violation Description	Failed to obtain authorization to discharge wastewater from livestock manure compost operations under Texas Commission on Environmental Quality ("TCEQ") General Permit No. WQG200000, as documented during an investigation conducted on May 29, 2009. Specifically, authorization to operate under TCEQ General Permit No. WQG200001 expired on February 6, 2009, but the Respondent failed to submit a Notice of Intent ("NOI") to renew authorization.		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
OR			Percent <input type="text" value="0%"/>
>> Programmatic Matrix			
Falsification			
Major	Moderate	Minor	
<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.		
Adjustment		<input type="text" value="\$9,000"/>	
		<input type="text" value="\$1,000"/>	
Violation Events			
Number of Violation Events <input type="text" value="4"/>		Number of violation days <input type="text" value="119"/>	
<small>mark only one with an x</small>	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"/>	
		Violation Base Penalty <input type="text" value="\$4,000"/>	
Four monthly events are recommended from the date authorization under the previous permit ended (February 6, 2009) to the date of compliance (June 5, 2009).			
Good Faith Efforts to Comply		<input type="text" value="\$1,000"/>	
		25.0% Reduction	
		Before NOV NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>		
Ordinary	<input checked="" type="text" value="x"/>		
N/A	<input type="text"/>	<small>(mark with x)</small>	
Notes	The Respondent submitted a NOI on June 5, 2009.		
		Violation Subtotal <input type="text" value="\$3,000"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount <input type="text" value="\$2"/>		Violation Final Penalty Total <input type="text" value="\$3,080"/>	
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,080"/>	

Economic Benefit Worksheet

Respondent Organic Residual Reclamation, L.L.C.
Case ID No. 37975
Reg. Ent. Reference No. RN104531959
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	Overtime 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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$100	6-Feb-2009	5-Jun-2009	0.33	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Delayed cost to prepare and submit a Notice of Intent for coverage under general permit WQG200000. Date required is the date the NOI was due. Final date is the date the NOI was submitted.

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 \$100 **TOTAL** \$2

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ORGANIC RESIDUAL
RECLAMATION, L.L.C.
RN104531959**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1144-IWD-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 Organic Residual Reclamation, L.L.C. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. 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 livestock manure composting operation at 1303 County Road 319 in Dublin, Erath 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 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 June 27, 2009, and July 15, 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 Twelve Thousand Dollars (\$12,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent

has paid Three Hundred Twenty-Five Dollars (\$325) of the administrative penalty and Two Thousand Four Hundred Dollars (\$2,400) 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand Two Hundred Seventy-Five Dollars (\$9,275) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Sixty-Five Dollars (\$265) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all 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 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 the Respondent has implemented the following corrective measures at the Facility:
 - a. By June 5, 2009, submitted a Notice of Intent ("NOI") for coverage under TCEQ General Permit No. WQG200000;
 - b. By July 1, 2009, removed trees and brush from the retention control structure ("RCS") embankment and installed a rain gauge at the Facility;
 - c. By August 10, 2009, developed and included a closure plan in the Facility's Engineering Report;
 - d. By August 31, 2009, removed and properly disposed of the manure stored outside the containment area; and
 - e. By December 31, 2009, submitted self-reporting forms indicating that no soil samples were collected for the years 2005 through 2008.
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 Facility, the Respondent is alleged to have:

1. Failed to obtain authorization to discharge wastewater generated from livestock manure compost operations under TCEQ General Permit No. WQG200000, in violation of 30 TEX. ADMIN. CODE § 205.5(c), as documented during an investigation conducted on May 29, 2009. Specifically, authorization to operate under TCEQ General Permit No. WQG200001 expired on February 6, 2009, but the Respondent failed to submit a Notice of Intent ("NOI") to renew authorization.
2. Failed to prevent trees or woody vegetation from growing within a wastewater retention facility or on an earthen levee or embankment, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section C, Operational Requirements No. 5.c, as documented during an investigation on June 25, 2009. Specifically, multiple trees and brush were observed growing on the embankment of the Facility's RCS.
3. Failed to stockpile manure in such a manner to retain runoff on-site, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section C, Operational Requirements No. 6.b, as documented during an investigation on June 25, 2009. Specifically, stockpiled manure was observed outside the containment berm north and south of the composting area, creating the potential for off-site runoff.
4. Failed to keep and maintain a rain gauge on-site, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section C, Operational Requirements No. 6.g, as documented during an investigation on June 25, 2009. Specifically, the investigator observed that there was no rain gauge at the Facility.
5. Failed to include a closure plan in the Engineering Report, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section B, Specific Requirements for Evaporation and Irrigation, No. 1.f, as documented during an investigation on June 25, 2009. Specifically, the investigator reviewed the Engineering Report during the investigation and noted that it did not contain a closure plan for the Facility.
6. Failed to obtain certification by a Texas licensed professional engineer that a retention facility lining meets the appropriate criteria to prevent ground-water contamination, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200008, Part III, Section B, Specific Requirements for Evaporation and Irrigation, No. 3.a.(5), as documented during an investigation on June 25, 2009.
7. Failed to submit soil sample results for each irrigation field using an approved self-reporting form by March 20th of each year for the previous year's sampling events, in violation of 30 TEX.

ADMIN. CODE § 305.125(1) and TCEQ General Permit No. WQG200001, Part III, Section C, Operational Requirements No. 1.f, as documented during an investigation on June 25, 2009. Specifically, the investigator documented that soil sample results were not submitted to the TCEQ for the years 2005 through 2008.

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: Organic Residual Reclamation, L.L.C., Docket No. 2009-1144-IWD-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. Within 60 days after the effective date of this Agreed Order, submit documentation that a Texas licensed professional engineer has certified that the retention facility's lining meets criteria to prevent groundwater contamination; and
 - b. 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 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:

Water 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 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.
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.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Stollie
For the Executive Director

4/29/2010
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.

Paul Fagan
Signature

4/12/10
Date

Paul Fagan
Name (Printed or typed)
Authorized Representative of
Organic Residual Reclamation, L.L.C.

manager
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.