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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0394-SLG-E TCEQ ID: RN103167748 CASE NO.: 39309
RESPONDENT NAME: Larry Hawkins dba Hawkins Septic Tanks

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 type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input checked="" type="checkbox"/> SLUDGE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Hawkins Septic Tanks, 2395 State Highway 79 North, Wichita Falls, Clay County</p> <p>TYPE OF OPERATION: Sludge transportation business</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on December 2, 2009, alleging the septic tank waste was being held on the truck over four days. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received but the complainant has not expressed the desire to protest this action or speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 23, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Water Enforcement Section, MC 169, 512-239-4490; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Larry G. Hawkins, Owner/Operator, Hawkins Septic Tanks, 2395 State Highway 79 North, Wichita Falls, Texas 76305 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: December 2, 2009</p> <p>Date of Investigation Relating to this Case: December 3, 2009</p> <p>Date of NOV Relating to this Case: February 8, 2010 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failure to renew a sludge transporter registration before continuing to transport wastewater treatment sludge. Specifically, the Transporter Registration No. 22437 expired on August 31, 2008, and the Respondent continued to transport sludge [30 TEX. ADMIN. CODE § 312.142(a)].</p> <p>2) Failure to maintain a record of each individual collection and deposit in the form of a trip ticket. Specifically, the Respondent did not have a trip ticket for January 20, 2010 readily available for review by the investigator when requested on January 28, 2010 [30 TEX. ADMIN. CODE § 312.145(A)].</p> <p>3) Failure to dispose of waste within four days of storing in a mobile closed container. Specifically, the Respondent picked up waste on January 25, 2010, and did not dispose of it at an authorized disposal site until February 1, 2010 [30 TEX. ADMIN. CODE § 312.147(A)].</p>	<p>Total Assessed: \$5,040</p> <p>Total Deferred: \$1,008 <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: \$1,008 (remaining \$3,024 due in three monthly payments of \$1,008 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 Site:</p> <p>a) On January 6, 2010, received authorization from the TCEQ to transport wastewater sludge under renewed Transporter Registration No. 22437;</p> <p>b) By March 4, 2010, completed training drivers and other staff, including office personnel and contract laborers, on the rules and procedures applicable to sludge transportation and disposal; and</p> <p>c) On March 8, 2010, submitted a copy of the January 20, 2010 trip ticket to TCEQ and began maintaining a record of each individual collection and deposit at the Site.</p>

Additional ID No(s): Sludge Registration No. 22437



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

ICEQ

DATES	Assigned	3-Mar-2010	Screening	11-Mar-2010	EPA Due	
	PCW	11-Mar-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Larry Hawkins dba Hawkins Septic Tanks				
Reg. Ent. Ref. No.	RN103167748				
Facility/Site Region	3-Ablene	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	39309	No. of Violations	3
Docket No.	2010-0394-SLG-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Merrilee Hupp
Admin. Penalty \$ Limit	Minimum \$0	EC's Team	Enforcement Team 1
	Maximum		\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1:** \$6,600

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 adjustment 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:** \$1,560

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

Total EB Amounts	\$3	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$212	

SUM OF SUBTOTALS 1-7 **Final Subtotal:** \$5,040

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: \$5,040

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty:** \$5,040

DEFERRAL 20.0% Reduction **Adjustment:** -\$1,008

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY: \$4,032

Screening Date: 11-Mar-2010

Docket No. 2010-0394-SLG-E

PCW

Respondent: Larry Hawkins dba Hawkins Septic Tanks

Policy Revision 2 (September 2002)

Case ID No. 39309

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103167748

Media [Statute]: Water Quality

Enf. Coordinator: Merrilee Hupp

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)

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

No adjustment due to compliance history.

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

Screening Date 11-Mar-2010

Docket No. 2010-0394-SLG-E

PCW

Respondent Larry Hawkins dba Hawkins Septic Tanks

Policy Revision 2 (September 2002)

Case ID No. 39309

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103167748

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 312.142(a)

Violation Description

Failed to renew a sludge transporter registration before continuing to transport wastewater treatment sludge. Specifically, the Transporter Registration No. 22437 expired on August 31, 2008, and the Respondent continued to transport sludge, as documented during an investigation beginning on December 3, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6

493 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$6,000

Six quarterly events are recommended from the transporter registration expiration date of August 31, 2008, to January 6, 2010 when the registration was renewed.

Good Faith Efforts to Comply

25.0% Reduction

\$1,500

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

Notes

The Respondent was issued a renewed sludge transporter registration on January 6, 2010.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

Economic Benefit Worksheet

Respondent Larry Hawkins dba Hawkins Septic Tanks
Case ID No. 39309
Reg. Ent. Reference No. RN103167748
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$25	31-Aug-2008	6-Jan-2010	1.35	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Actual cost to prepare and submit an administratively complete application to renew the registration as a sludge transporter. Cost includes a ten dollar authorization sticker fee. Date required is the date the registration expired. Final date is the 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 **TOTAL**

\$25	\$2
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Screening Date 11-Mar-2010

Docket No: 2010-0394-SLG-E

PCW

Respondent: Larry Hawkins dba Hawkins Septic Tanks

Policy Revision 2 (September 2002)

Case ID No: 39309

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN103167748

Media [Statute]: Water Quality

Enf. Coordinator: Merrilee Hupp

Violation Number: 2

Rule Cite(s)

30 Tex. Admin. Code § 312.145(a)

Violation Description

Failed to maintain a record of each individual collection and deposit in the form of a trip ticket. Specifically, the Respondent did not have a trip ticket for the waste picked up and deposited on January 20, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

Over 70% of the requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

50 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

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 submitted a copy of the January 20, 2010 trip ticket to TCEQ on March 8, 2010.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$90

This violation Final Assessed Penalty (adjusted for limits) \$90

Economic Benefit Worksheet

Respondent: Larry Hawkins dba Hawkins Septic Tanks
Case ID No.: 39309
Reg. Ent. Reference No.: RN103167748
Media: Water Quality
Violation No.: 2

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)	\$25	20-Jan-2010	8-Mar-2010	0.13	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a copy of the trip ticket and maintain it at the Facility for review upon request by TCEQ.
 Date required is date sludge was picked up from generator and final date is when trip ticket was submitted to TCEQ.

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

\$25

TOTAL	\$0
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Screening Date 11-Mar-2010

Docket No. 2010-0394-SLG-E

PCW

Respondent Larry Hawkins dba Hawkins Septic Tanks

Policy Revision 2 (September 2002)

Case ID No. 39309

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103167748

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 312.147(a)

Violation Description

Failed to dispose of waste within four days of storing in a mobile closed container. Specifically, the Respondent picked up waste on January 25, 2010, and did not dispose of it at an authorized disposal site until February 1, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

10 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$50

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

Notes

By March 4, 2010, the Respondent achieved compliance.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$450

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

Economic Benefit Worksheet

Respondent: Larry Hawkins dba Hawkins Septic Tanks
Case ID No.: 39309
Reg. Ent. Reference No.: RN103167748
Media: Water Quality
Violation No.: 3

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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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	\$50	25-Jan-2010	4-Mar-2010	0.10	\$0	n/a	\$0
Remediation/Disposal	\$112	25-Jan-2010	4-Mar-2010	0.10	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to transport the 700 gallons of sludge (at \$0.16 per gallon) picked up on January 25, 2010, to the Wichita Falls wastewater treatment facility and to train drivers regarding the applicable rules and deadlines. Date required is the date the waste was picked up and final date is when the training was completed.

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

\$162

TOTAL

\$1

Compliance History Report

Customer/Respondent/Owner-Operator: CN603638040 Larry Hawkins Classification: AVERAGE Rating: 3.01
Classification: AVERAGE Site Rating: 3.01
BY DEFAULT

Regulated Entity: RN103167748 HAWKINS SEPTIC TANKS
ID Number(s): SLUDGE REGISTRATION 22437
Location: 2395 STATE HIGHWAY 79 N, WICHITA FALLS, CLAY CO., TX
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: March 15, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 15, 2005 to March 15, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Merrilee G. Hupp Phone: 512- 239 - 1000

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?
6. Rating Date: 9/1/2009 Repeat Violator: NO

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
LARRY HAWKINS DBA HAWKINS
SEPTIC TANKS
RN103167748

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0394-SLG-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 Larry Hawkins dba Hawkins Septic Tanks ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and 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 sludge transportation business located at 2395 State Highway 79 North in Wichita Falls, Clay County, Texas (the "Site").
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 Site 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 February 13, 2010.

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 Five Thousand Forty Dollars (\$5,040) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Eight Dollars (\$1,008) of the administrative penalty and One Thousand Eight Dollars (\$1,008) is deferred contingent upon the Respondent's timely and satisfactory compliance with all 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 Three Thousand Twenty-Four Dollars (\$3,024) of the administrative penalty shall be payable in three monthly payments of One Thousand Eight Dollars (\$1,008) 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.

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 has implemented the following corrective measures at the Site:
 - a. On January 6, 2010, received authorization from the TCEQ to transport wastewater sludge under renewed Transporter Registration No. 22437;
 - b. By March 4, 2010, completed training drivers and other staff, including office personnel and contract laborers, on the rules and procedures applicable to sludge transportation and disposal; and
 - c. On March 8, 2010, submitted a copy of the January 20, 2010 trip ticket to TCEQ and began maintaining a record of each individual collection and deposit at the Site.
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 Site, the Respondent is alleged to have:

1. Failed to renew a sludge transporter registration before continuing to transport wastewater treatment sludge, in violation of 30 TEX. ADMIN. CODE § 312.142(a), as documented during an investigation beginning December 3, 2009. Specifically, the Transporter Registration No. 22437 expired on August 31, 2008, and the Respondent continued to transport sludge.
2. Failed to maintain a record of each individual collection and deposit in the form of a trip ticket, in violation of 30 TEX. ADMIN. CODE § 312.145(a), as documented during an investigation beginning December 3, 2009. Specifically, the Respondent did not have a trip ticket for January 20, 2010 readily available for review by the investigator when requested on January 28, 2010.
3. Failed to dispose of waste within four days of storing in a mobile closed container, in violation of 30 TEX. ADMIN. CODE § 312.147(a), as documented during an investigation beginning on December 3, 2009. Specifically, the Respondent picked up waste on January 25, 2010, and did not dispose of it at an authorized disposal site until February 1, 2010.

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 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: Larry Hawkins dba Hawkins Septic Tanks, Docket No. 2010-0394-SLG-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 Site operations referenced in this Agreed Order.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.

Larry Hawkins dba Hawkins Septic Tanks
 DOCKET NO. 2010-0394-SLG-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

 For the Commission

John Szallies
 For the Executive Director

8/13/2010
 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.

[Signature]
 Signature

06/21/2010
 Date

LARRY G. HAWKINS
 Name (Printed or typed)
 Authorized Representative of
 Larry Hawkins dba Hawkins Septic Tanks

Owner/Operator
 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.

