

Executive Summary – Enforcement Matter – Case No. 40920
Lee Stafford and Lubbock Industries, Inc.
RN103005617
Docket No. 2011-0006-MSW-E

Order Type:
Agreed Order

Findings Order Justification:
N/A

Media:
MSW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
602 Erskine Street, Lubbock, Lubbock County

Type of Operation:
unauthorized scrap tire storage site

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: July 8, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,500

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$250

Total Due to General Revenue: \$5,250

Payment Plan: 35 payments of \$150 each

SEP Conditional Offset: N/A

Compliance History Classifications:
Person/CN – Average (Both Respondents)
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: November 23, 2010
Date(s) of NOV(s): April 27, 2009; June 18, 2009
Date(s) of NOE(s): December 7, 2010

Violation Information

Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 scrap tires on the ground (approx. 258,498 tires) [30 TEX. ADMIN. CODE §§ 328.59(a) and 328.60(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately, cease accepting any additional scrap tires at the Facility until properly authorized.
2. Within 30 days:
 - a. Obtain a scrap tire storage registration; or
 - b. Reduce the number of tires being stored at the facility to no more than 500 on the ground and/or no more than 2,000 tires in enclosed and lockable containers.
3. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: May 13, 2011
Date Answer(s) Filed: June 14, 2011
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: June 10, 2011

Contact Information

TCEQ Attorneys: Xavier Guerra, Litigation Division, (210) 403-4016
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Keith Frank, Waste Enforcement Section, (512) 239-1203

TCEQ Regional Contact: Patrick Cooke, Lubbock Regional Office, (806) 796-7092

Respondent: Lee Stafford, President, Lubbock Industries, Inc., 4506 9th Street Lubbock, Texas 79416

Respondent's Attorney: Donald L. Curry, Curry and Associates, P.O. Box 54150, Lubbock, Texas 79453-4150



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Dec-2010	Screening	30-Dec-2010	EPA Due	
	PCW	15-Apr-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Lee Stafford and LUBBOCK INDUSTRIES, INC.				
Reg. Ent. Ref. No.	RN103005617				
Facility/Site Region	2-Lubbock	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	40920	No. of Violations	1
Docket No.	2011-0006-MSW-E	Order Type	1660
Media Program(s)	Waste Tires	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	10.0% Enhancement	Subtotals 2, 3, & 7	\$500
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Notes	Enhancement for two previous Notices of Violation with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondents do not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$418	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$5,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,500
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$5,500
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Screening Date 30-Dec-2010

Docket No. 2011-0006-MSW-E

PCW

Respondent Lee Stafford and LUBBOCK INDUSTRIES, INC.

Policy Revision 2 (September 2002)

Case ID No. 40920

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103005617

Media [Statute] Waste Tires

Enf. Coordinator Keith Frank

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> 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 for two previous Notices of Violation with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 30-Dec-2010

Docket No. 2011-0006-MSW-E

PCW

Respondent Lee Stafford and LUBBOCK INDUSTRIES, INC.

Policy Revision 2 (September 2002)

Case ID No. 40920

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103005617

Media [Statute] Waste Tires

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 328.59(a) and 328.60(a)

Violation Description Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 scrap tires on the ground. Specifically, the Respondents are storing approximately 258,498 scrap tires at the Facility without a scrap tire registration.

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			25%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 37 Number of violation days

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

Violation Base Penalty \$5,000

Two monthly events are recommended based on documentation of the violation during the November 23, 2010 investigation to the December 30, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$418

Violation Final Penalty Total \$5,500

This violation Final Assessed Penalty (adjusted for limits) \$5,500

Economic Benefit Worksheet

Respondent Lee Stafford and LUBBOCK INDUSTRIES, INC.
Case ID No. 40920
Reg. Ent. Reference No. RN103005617
Media Waste Tires
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	\$10,000	23-Nov-2010	24-Sep-2011	0.84	\$418	n/a	\$418
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Facility as a scrap tire storage facility. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$418

Compliance History

Customer/Respondent/Owner-Operator:	CN601687676 Lee Stafford	Classification: AVERAGE	Rating: 1.20
Regulated Entity:	RN103005617 Lone Star Tire Disposal	Classification: AVERAGE	Site Rating: 1.20
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED	ID NUMBER	ENF103005617
Location:	602 ERSKINE ST, LUBBOCK, TX, 79403		
TCEQ Region:	REGION 02 - LUBBOCK		
Date Compliance History Prepared:	January 31, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 31, 2006 to January 31, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Keith Frank</u>	Phone:	<u>(512) 239-1203</u>

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Lubbock Industries, Inc.
Lee Stafford
4. If Yes, who was/were the prior owner(s)/operator(s)? Perry, Delma Jr.
5. When did the change(s) in owner or operator occur? 2/8/2008
6. Rating Date: 9/1/2010 Repeat Violator: No

Components (Multimedia) for the Site :

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

1	04/13/2009	(740092)
2	04/27/2009	(743519)
3	06/18/2009	(749521)
4	02/02/2010	(777077)
5	12/07/2010	(879617)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	04/27/2009	(743519)	Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 328, SubChapter F 328.59(a)					
Description:	Failure to have a used scrap tire storage registration prior to storing an excess of 500 used scrap tires on the ground.					
Date:	06/18/2009	(749521)	Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 328, SubChapter F 328.59(a)					
Description:	Failure to have a used scrap tire storage registration prior to storing an excess of 500 used scrap tires on the ground.					
 - 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

Compliance History

Customer/Respondent/Owner-Operator:	CN603471848 LUBBOCK INDUSTRIES, INC.	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN103005617 Lone Star Tire Disposal	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED	ID NUMBER	ENF103005617
Location:	602 ERSKINE ST, LUBBOCK, TX, 79403		
TCEQ Region:	REGION 02 - LUBBOCK		
Date Compliance History Prepared:	January 31, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 31, 2006 to January 31, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Keith Frank</u>	Phone:	<u>(512) 239-1203</u>

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Lubbock Industries, Inc.
Lee Stafford
4. If Yes, who was/were the prior owner(s)/operator(s)? Perry, Delma Jr.
5. When did the change(s) in owner or operator occur? 2/8/2008
6. Rating Date: 9/1/2010 Repeat Violator: No

Components (Multimedia) for the Site :

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

1	04/27/2009	(743519)
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Self Report?	NO			
Citation:	30 TAC Chapter 328, SubChapter F 328.59(a)			
Description:	Failure to have a used scrap tire storage registration prior to storing an excess of 500 used scrap tires on the ground.			
 - 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
LEE STAFFORD AND LUBBOCK
INDUSTRIES, INC.;
RN103005617**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-0006-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Lee Stafford and LUBBOCK INDUSTRIES, INC. ("Respondents") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents, represented by Donald L. Curry of the law firm Curry and Associates, appear before the Commission and together stipulate that:

1. Respondents own an unauthorized scrap tire storage site located at 602 Erskine Street in Lubbock, Lubbock County, Texas (the "Facility"). The Facility involves the management and/or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Executive Director and Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondents are subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of five thousand five hundred dollars (\$5,500.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondents paid two hundred fifty dollars (\$250.00) of the administrative penalty. The remaining amount of five thousand two hundred fifty dollars (\$5,250.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one hundred fifty dollars (\$150.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the

Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondents' failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondents to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Respondents agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on November 23, 2010, a TCEQ Lubbock Regional Office investigator documented that Respondents failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 scrap tires on the ground. Specifically, approximately 258,498 scrap tires were stored on the ground at the Facility without a scrap tire storage registration, in violation of 30 TEX. ADMIN. CODE §§ 328.59(a) and 328.60(a).
2. Respondents received notice of the violation on or about December 12, 2010.

III. DENIALS

Respondents generally deny each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondents pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Lee Stafford and LUBBOCK INDUSTRIES, INC., Docket No. 2011-0006-MSW-E" to:

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

2. Respondents shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Agreed Order, Respondents shall cease accepting any additional scrap tires at the Facility until properly authorized, in accordance with 30 TEX. ADMIN. CODE §§ 328.59 and/or 328.60.
 - b. Within 30 days after the effective date of this Agreed Order, Respondents shall, in accordance with 30 TEX. ADMIN. CODE §§ 328.59 and/or 328.60, either:
 - i. Obtain a scrap tire storage registration; or
 - ii. Reduce the number of tires being stored at the Facility to no more than 500 on the ground and/or no more than 2,000 tires in enclosed and lockable containers.
 - c. Within 45 days after the effective date of this Agreed Order, Respondents shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 2.a., and 2.b.i. or 2.b.ii. The certification shall be notarized by a State of Texas Notary Public and shall 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 fine and imprisonment for knowing violations."

Respondents shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Patrick Cooke, Waste Section Manager
Texas Commission on Environmental Quality
Lubbock Regional Office
5012 50th St., Ste. 100
Lubbock TX 79414-3426

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondents fail 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, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondents 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic

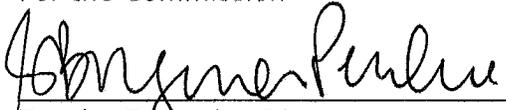
transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondents, or three days after the date on which the Commission mails notice of this Agreed Order to Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/12/2011

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Lee Stafford and LUBBOCK INDUSTRIES, INC., 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Lee Stafford, Individually

June 10, 2011

Date



Signature - Lee Stafford, President
LUBBOCK INDUSTRIES, INC.

June 10, 2011

Date