

Executive Summary – Enforcement Matter – Case No. 41480
Trailer, Wheel & Frame Co.
RN102294253
Docket No. 2011-0579-OSS-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

OSS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Trailer, Wheel & Frame, 8222 North Freeway, Houston, Harris County

Type of Operation:

On-site sewage facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 9, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,756

Amount Deferred for Expedited Settlement: \$351

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,405

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average by Default

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 41480
Trailer, Wheel & Frame Co.
RN102294253
Docket No. 2011-0579-OSS-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 4, 2011
Date(s) of NOE(s): April 7, 2011

Violation Information

1. Failed to have a new maintenance contract signed and submitted to the TCEQ at least 30 days before the contract expires. Specifically, the maintenance service contract expired on June 24, 2010, and was not renewed [30 TEX. ADMIN. CODE § 285.7(d)(2)].
2. Failed to have an acceptable surface application area. Specifically, multiple trailers were parked within the surface application area and none of the sprayheads could be located. Additionally, the application area was devoid of vegetation [30 TEX. ADMIN. CODE § 285.33(d)(2)(A)].
3. Failed to fit the risers with water tight caps. Specifically, one of the tank inspection risers had a large crack in the side and a riser cap was also broken [30 TEX. ADMIN. CODE § 285.32(b)(1)(D)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:

- a. On May 16, 2011, obtained a new maintenance contract and submitted a copy to the TCEQ;
- b. By May 30, 2011, removed trailers from the surface application area; and
- c. By June 9, 2011, replaced the cracked riser and riser cap.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 90 days, provide an acceptable surface application area at the Site; and
- b. Within 105 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A

**Executive Summary – Enforcement Matter – Case No. 41480
Trailer, Wheel & Frame Co.
RN102294253
Docket No. 2011-0579-OSS-E**

SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Merrilee Hupp, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-4490; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Bernard P. Vlahakis, President, Trailer, Wheel & Frame Co., 8222 North
Freeway, Houston, Texas 77037
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Apr-2011	Screening	14-Apr-2011	EPA Due	
	PCW	18-Jul-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Trailer, Wheel & Frame Co.
Reg. Ent. Ref. No.	RN102294253
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41480	No. of Violations	3
Docket No.	2011-0579-OSS-E	Order Type	1660
Media Program(s)	On-Site Sewage Disposal	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Merrilee Hupp
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$625**

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** **\$31**

Notes Enhancement for one NOV with same/similar violations.

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** **\$25**

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

Total EB Amounts \$1,168
Approx. Cost of Compliance \$2,490
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$631**

OTHER FACTORS AS JUSTICE MAY REQUIRE **178.3%** **Adjustment** **\$1,125**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement for the recovery of avoided costs associated with Violation No. 1.

Final Penalty Amount **\$1,756**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,756**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$351**

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 **\$1,405**

Screening Date 14-Apr-2011

Docket No. 2011-0579-OSS-E

PCW

Respondent Trailer, Wheel & Frame Co.

Policy Revision 2 (September 2002)

Case ID No. 41480

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102294253

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Merrilee Hupp

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>)	1	5%
	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%

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) 5%

>> 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 one NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 14-Apr-2011
Respondent Trailer, Wheel & Frame Co.
Case ID No. 41480
Reg. Ent. Reference No. RN102294253
Media [Statute] On-Site Sewage Disposal
Enf. Coordinator Merrilee Hupp

Docket No. 2011-0579-OSS-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description
 Failed to have a new maintenance contract signed and submitted to the TCEQ at least 30 days before the contract expires. Specifically, the maintenance service contract expired on June 24, 2010, and was not renewed, as documented during the record review conducted on April 4, 2011.

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>	

Violation Base Penalty

Good Faith Efforts to Comply

10.0% Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="checkbox"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Trailer, Wheel & Frame Co.
Case ID No. 41480
Reg. Ent. Reference No. RN102294253
Media On-Site Sewage Disposal
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
<small>No commas or \$</small>							

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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	\$1,200	24-Jun-2010	16-May-2011	0.89	\$54	\$1,072	\$1,125
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

Actual cost for a maintenance contract based on a \$1,200 annual cost. Date required is the date the contract expired, and the final date is the date of compliance.

Approx. Cost of Compliance

\$1,200

TOTAL

\$1,125

Screening Date 14-Apr-2011

Docket No. 2011-0579-OSS-E

PCW

Respondent Trailer, Wheel & Frame Co.

Policy Revision 2 (September 2002)

Case ID No. 41480

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102294253

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Merrilee Hupp

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 285.33(d)(2)(A)

Violation Description

Failed to have an acceptable surface application area, as documented during the record review conducted on April 4, 2011. Specifically, multiple trailers were parked within the surface application area and none of the sprayheads could be located. Additionally, the application area was devoid of vegetation.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to a significant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1

10 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$250

One quarterly event is recommended from the April 4, 2011 record review date to the April 14, 2011 screening date.

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$36

Violation Final Penalty Total \$731

This violation Final Assessed Penalty (adjusted for limits) \$731

Economic Benefit Worksheet

Respondent Trailer, Wheel & Frame Co.
Case ID No. 41480
Req. Ent. Reference No. RN102294253
Media On-Site Sewage Disposal
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)	\$450	10-Feb-2011	30-May-2011	0.30	\$0	\$9	\$9
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)	\$550	10-Feb-2011	31-Jan-2012	0.97	\$27	n/a	\$27

Notes for DELAYED costs

Estimated cost to remove trailers from the surface application area (\$450) and to provide an acceptable surface application area at the Site (\$550). Date required is the date trailers were first documented in the area and final date is when the trailers were removed from the application area (May 30, 2011) and when compliance is expected to be achieved by providing an acceptable application area (January 31, 2012).

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

\$36

Screening Date 14-Apr-2011

Docket No. 2011-0579-OSS-E

PCW

Respondent Trailer, Wheel & Frame Co.

Policy Revision 2 (September 2002)

Case ID No. 41480

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102294253

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Merrilee Hupp

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 285.32(b)(1)(D)

Violation Description

Failed to fit the risers with water tight caps. Specifically, one of the tank inspection risers had a large crack in the side and a riser cap was also broken, as documented during the record review conducted on April 4, 2011.

Base Penalty \$2,500

>> 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 an insignificant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$2,375

\$125

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 \$125

One single event is recommended.

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

Violation Subtotal \$125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$365

This violation Final Assessed Penalty (adjusted for limits) \$365

Economic Benefit Worksheet

Respondent Trailer, Wheel & Frame Co.
Case ID No. 41480
Req. Ent. Reference No. RN102294253
Media On-Site Sewage Disposal
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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No commas or \$

Delayed Costs

Equipment	\$290	10-Feb-2011	9-Jun-2011	0.33	\$0	\$6	\$7
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 for the replacement of a cracked riser and riser cap. Date required is the date the cracks were first documented in the riser and riser cap and final date is the date replacement was completed.

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

\$290

TOTAL

\$7

Compliance History

Customer/Respondent/Owner-Operator:	CN601216450 Trailer, Wheel & Frame Co.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN102294253 TRAILER, WHEEL & FRAME	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	AIR NEW SOURCE PERMITS ON SITE SEWAGE FACILITY	ACCOUNT NUMBER PERMIT	HG0747B 101-0218
Location:	8222 N FRWY, HOUSTON, HARRIS CO., TX.		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	April 14, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 14, 2006 to April 14, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Merrilee Hupp</u>	Phone:	<u>(512) 239-4490</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? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. 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	03/22/2011	906138
2	04/08/2011	(908636)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/14/2011	(895914)	
Self	NO	Classification:	Minor
Citation:	30 TAC Chapter 285, SubChapter A 285.7(d)(2)		
Description:	Failure to have a current maintenance contract.		
Self	NO	Classification:	Moderate
Citation:	30 TAC Chapter 285, SubChapter D 285.33(d)(2)(A)		
Description:	Failure to have an acceptable surface application area.		
Self	NO	Classification:	Moderate
Citation:	30 TAC Chapter 285, SubChapter D 285.32(b)(1)(D)		
Description:	Failure to have a water tight seal or water tight riser cap on the inspection or clean-out ports.		
Self	NO	Classification:	Moderate
Citation:	30 TAC Chapter 285, SubChapter D 285.33(d)(2)(D)		
Description:	Failure to have treated effluent disinfection before surface application disposal.		
- 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
TRAILER, WHEEL & FRAME CO.	§	
RN102294253	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0579-OSS-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates an on-site sewage facility located at 8222 North Freeway in Houston, Harris County, Texas (the "Site").
2. The TCEQ has general authority concerning the location, design, construction, installation, and proper functioning of an OSSF pursuant to TEX. HEALTH & SAFETY CODE ch. 366.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 12, 2011.
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 One Thousand Seven Hundred Fifty-Six Dollars (\$1,756) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid One Thousand Four Hundred Five Dollars (\$1,405) of the administrative penalty and Three Hundred Fifty-One Dollars (\$351) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. On May 16, 2011, obtained a new maintenance contract and submitted a copy to the TCEQ;
 - b. By May 30, 2011, removed trailers from the surface application area; and
 - c. By June 9, 2011, replaced the cracked riser and riser cap.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to have a new maintenance contract signed and submitted to the TCEQ at least 30 days before the contract expires, in violation of 30 TEX. ADMIN. CODE § 285.7(d)(2), as documented during a record review conducted on April 4, 2011. Specifically, the maintenance service contract expired on June 24, 2010, and was not renewed.
2. Failed to have an acceptable surface application area, in violation of 30 TEX. ADMIN. CODE § 285.33(d)(2)(A), as documented during a record review conducted on April 4, 2011. Specifically, multiple trailers were parked within the surface application area and

none of the sprayheads could be located. Additionally, the application area was devoid of vegetation.

3. Failed to fit the risers with water tight caps, in violation of 30 TEX. ADMIN. CODE § 285.32(b)(1)(D), as documented during the record review conducted on April 4, 2011. Specifically, one of the tank inspection risers had a large crack in the side and a riser cap was also broken.

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: Trailer, Wheel & Frame Co., Docket No. 2011-0579-OSS-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, provide an acceptable surface application area at the Site, in accordance with 30 TEX. ADMIN. CODE § 285.33(d)(2)(A); and
 - b. Within 105 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in 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.
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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/20/11

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

07/26/2011

Date

Bernard P Vlahakis

President

Name (Printed or typed)
Authorized Representative of
Trailer, Wheel & Frame Co.

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.