

**Executive Summary – Enforcement Matter – Case No. 41673
Gerald Osterkamp and Mary Beth Osterkamp
RN106123839
Docket No. 2011-0813-OSS-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

OSS

Small Business:

No

Location(s) Where Violation(s) Occurred:

433 Farm-to-Market Road 1731, Muleshoe, Bailey County

Type of Operation:

On-site sewage facility (“OSSF”)

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 2, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$750

Amount Deferred for Expedited Settlement: \$150

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$600

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN602615288 - N/A

CN603838012 - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41673
Gerald Osterkamp and Mary Beth Osterkamp
RN106123839
Docket No. 2011-0813-OSS-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 15, 2011
Date(s) of NOE(s): May 4, 2011

Violation Information

Failed to obtain authorization to construct an OSSF. Specifically, the Respondents constructed and installed an OSSF on their property without first obtaining the required authorization [30 TEX. ADMIN. CODE § 285.3(b)(1) and TEX. HEALTH & SAFETY CODE § 366.051(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On April 25, 2011, the Respondents submitted a permit application for the OSSF and paid the application fee.

Technical Requirements:

The Order will require the Respondents to:

- a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and
- b. Within 60 days, submit written certification of compliance that either authorization has been obtained for the OSSF or that the operation of the OSSF has ceased and the OSSF has been properly removed or abandoned.

Litigation Information

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

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RN106123839
Docket No. 2011-0813-OSS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division,
Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412.

TCEQ SEP Coordinator: N/A

Respondents: Gerald and Mary Beth Osterkamp, Owners, 770 County Road 1038,
Muleshoe, Texas 79347-6103

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	9-May-2011	Screening	18-May-2011	EPA Due	
	PCW	18-May-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Gerald Osterkamp and Mary Beth Osterkamp
Reg. Ent. Ref. No.	RN106123839
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41673	No. of Violations	1
Docket No.	2011-0813-OSS-E	Order Type	1660
Media Program(s)	On-Site Sewage Disposal	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Brister
		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	\$750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7
Notes	No adjustment for compliance history.	
		\$0

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondents do not meet the culpability criteria.			

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$9	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$210		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		Final Penalty Amount	\$750

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$750
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DEFERRAL	20.0% Reduction	Adjustment	-\$150
<small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		

PAYABLE PENALTY	\$600
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Screening Date 18-May-2011

Docket No. 2011-0813-OSS-E

PCW

Respondent Gerald Osterkamp and Mary Beth Osterkamp

Policy Revision 2 (September 2002)

Case ID No. 41673

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106123839

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Heather Brister

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>)	0	0%
	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) 0%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 18-May-2011

Docket No. 2011-0813-OSS-E

PCW

Respondent Gerald Osterkamp and Mary Beth Osterkamp

Policy Revision 2 (September 2002)

Case ID No. 41673

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106123839

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 285.3(b)(1) and Tex. Health & Safety Code § 366.051(a)

Violation Description

Failed to obtain authorization to construct an on-site sewage facility (OSSF). Specifically, the Respondents constructed and installed an OSSF on their own property without first obtaining the required authorization, as documented during an investigation conducted on March 15, 2011.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 3 Number of violation days 64

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

Violation Base Penalty \$750

Three monthly events are recommended from the investigation date (March 15, 2011) to the screening date (May 18, 2011).

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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$750

This violation Final Assessed Penalty (adjusted for limits) \$750

Economic Benefit Worksheet

Respondent Gerald Osterkamp and Mary Beth Osterkamp
Case ID No. 41673
Reg. Ent. Reference No. RN106123839
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$210	15-Mar-2011	31-Jan-2012	0.88	\$9	n/a	\$9
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit an application and obtain approval for an OSSF for a single-family dwelling. Date required is the investigation date. Final date is the anticipated 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

\$210

TOTAL

\$9

Compliance History

Customer/Respondent/Owner-Operator:	CN603838012	OSTERKAMP, MARY BETH	Classification:	Rating:
Regulated Entity:	RN106123839	OSSF AT 433 FM 1731 MULESHOE	Classification:	Site Rating:
ID Number(s):	ON SITE SEWAGE FACILITY	PERMIT		620442
Location:	433 FM 1731, MULESHOE, TX, 79347			
TCEQ Region:	REGION 02 - LUBBOCK			
Date Compliance History Prepared:	June 30, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 30, 2006 to June 30, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Heather Brister	Phone:	(254) 761-3034	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. | |

Components (Multimedia) for the Site :

- | | | |
|----|--|-----|
| A. | Final Enforcement Orders, court 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 05/03/2011 (908911) | |
| 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 |

Compliance History

Customer/Respondent/Owner-Operator:	CN602615288	OSTERKAMP, GERALD	Classification:	Rating:
Regulated Entity:	RN106123839	OSSF AT 433 FM 1731 MULESHOE	Classification:	Site Rating:
ID Number(s):	ON SITE SEWAGE FACILITY	PERMIT		620442
Location:	433 FM 1731, MULESHOE, TX, 79347			
TCEQ Region:	REGION 02 - LUBBOCK			
Date Compliance History Prepared:	June 30, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 30, 2006 to June 30, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Heather Brister	Phone:	(254) 761-3034	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. | |

Components (Multimedia) for the Site :

- | | | |
|----|--|-----|
| A. | Final Enforcement Orders, court 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 05/03/2011 (908911) | |
| 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
GERALD OSTERKAMP AND
MARY BETH OSTERKAMP
RN106123839

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0813-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 Gerald Osterkamp and Mary Beth Osterkamp ("the Respondents") 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 Respondents appear before the Commission and together stipulate that:

1. The Respondents own residential property with an on-site sewage facility ("OSSF") located at 433 Farm-to-Market Road 1731 in Muleshoe, Bailey 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 Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents is subject to the Commission's jurisdiction.
4. The Respondents received notice of the violation alleged in Section II ("Allegations") on or about May 9, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seven Hundred Fifty Dollars (\$750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid Six Hundred Dollars (\$600) of the administrative penalty and One Hundred Fifty Dollars (\$150) is deferred contingent upon the Respondents' 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 Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondents 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 Respondents have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on April 25, 2011, the Respondents submitted a permit application for the OSSF and paid the application fee.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have 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 Respondents are alleged to have failed to obtain authorization to construct an OSSF, in violation of 30 TEX. ADMIN. CODE § 285.3(b)(1) and TEX. HEALTH & SAFETY CODE § 366.051(a), as documented during an investigation conducted on March 15, 2011. Specifically, the Respondents constructed and installed an OSSF on their property without first obtaining the required authorization.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the 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 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: Gerald Osterkamp and Mary Beth Osterkamp, Docket No. 2011-0813-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. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. It is further ordered that the Respondents shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and
 - b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization has been obtained for the OSSF or that the operation of the OSSF has ceased and the OSSF has been properly removed or abandoned. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, 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
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents.
5. If the Respondents 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 Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents becomes 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 the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receives 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 the 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. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondents, or three days after the date on which the Commission mails notice of the Order to the 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

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.

Gerald Osterkamp
Signature

7-20-11
Date

GERALD OSTERKAMP
Name (Printed or typed)
Authorized Representative of
Gerald Osterkamp

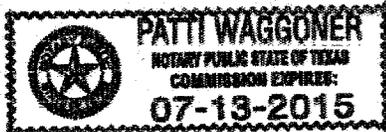
owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

State of Texas

County of Bailey

This instrument was acknowledged before me on July 20, 2011 by Gerald J. Osterkamp and Mary Beth Osterkamp.



Patti Waggoner

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

R. D. Hyde

For the Executive Director

9/12/11

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.

Mary Beth Osterkamp
Signature

July 20, 2011
Date

Mary Beth Osterkamp
Name (Printed or typed)
Authorized Representative of
Mary Beth Osterkamp

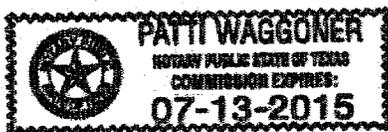
Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

State of Texas

County of Bailey

This instrument was acknowledged before me on July 20, 2011 by Gerald J. Osterkamp and Mary Beth Osterkamp.



Patti Waggoner