

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-1485-EAQ-E **TCEQ ID:** RN105793707 **CASE NO.:** 40368

**RESPONDENT NAME:** Lamb's Real Estate Investment I, LLC dba Lamb's Tire and Automotive Centers

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

<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input checked="" type="checkbox"/> <b>EDWARDS AQUIFER</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>

**SITE WHERE VIOLATION(S) OCCURRED:** Lamb's Tire and Automotive Centers, 4101 Sunrise Road, Round Rock, Williamson County

**TYPE OF OPERATION:** Automotive center

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on January 24, 2011. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney/SEP Coordinator:** None  
**TCEQ Enforcement Coordinator:** Ms. Marty Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  
**Respondent:** Mr. Ronald B. Meredeith, Chief Executive Officer, Lamb's Real Estate Investment I, LLC, 11675 Jollyville Road, Suite 300, Austin, Texas 78759  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**RESPONDENT NAME:** Lamb's Real Estate Investment I, LLC dba Lamb's Tire and Automotive Centers  
**DOCKET NO.:** 2010-1485-EAQ-E

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 13, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 24, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failed to obtain approval of a modification to an approved Water Pollution Abatement Plan ("WPAP") prior to initiating physical and operational modifications to a water quality pond. Specifically, the water quality pond at the Site was not constructed as designed and approved in WPAP No. 11-09081901 [30 TEX. ADMIN. CODE § 213.4(a)(1) and 213.4(j)(1), and WPAP No. 11-09081901, Standard Conditions Nos. 2 and 6].</p> <p>2) Failed to obtain approval of an Edwards Aquifer Protection Program ("EAPP") Aboveground Storage Tank ("AST") Facility Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone. Specifically, four ASTs with the cumulative capacity of 770 gallons were documented at the Site [30 TEX. ADMIN. CODE § 213.4(a)(1)].</p>	<p><b>Total Assessed:</b> \$1,800</p> <p><b>Total Deferred:</b> \$360  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,440</p> <p><b>Compliance History Classification:</b>            Person/CN – High            Site/RN – High</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on September 10, 2010, the Respondent submitted an administratively complete WPAP Modification Application for WPAP No. 11-09081901 to the TCEQ.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the WPAP modification application within 30 days after the date of such requests or by any other deadline specified in writing;</p> <p>b. Within 30 days after the effective date of this Agreed Order, either reduce the cumulative AST capacity at the Site to less than 500 gallons or submit an EAPP AST Facility Plan for review and approval;</p> <p>c. If an EAPP AST Facility Plan is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the EAPP AST Facility Plan within 30 days after the date of such requests or by any other deadline specified in writing; and</p> <p>d. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision b.</p>

Additional ID No(s): WPAP 11-09081901



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	30-Aug-2010	<b>Screening</b>	10-Sep-2010	<b>EPA Due</b>	
	<b>PCW</b>	16-Sep-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Lamb's Real Estate Investment I, LLC dba Lamb's Tire and Automotive Centers		
<b>Reg. Ent. Ref. No.</b>	RN105793707		
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40368	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1485-EAQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Edwards Aquifer	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Marty Hott
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000
		<b>EC's Team</b>	Enforcement Team 1

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$2,000</b>
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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.

<b>Compliance History</b>	<b>-10.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>-\$200</b>
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Notes: Reduction for High Performer classification.

<b>Culpability</b>	<b>No</b>	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$270
Approx. Cost of Compliance	\$8,600

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,800</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$1,800</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,800</b>
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$360</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$1,440</b>
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Screening Date 10-Sep-2010

Docket No. 2010-1485-EAQ-E

PCW

Respondent Lamb's Real Estate Investment I, LLC dba  
Lamb's Tire and Automotive Centers

Policy Revision 2 (September 2002)

Case ID No. 40368

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105793707

Media [Statute] Edwards Aquifer

Enf. Coordinator Marty Hott

### 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)

No

Adjustment Percentage (Subtotal 3) 0%

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

High Performer

Adjustment Percentage (Subtotal 7) -10%

#### >> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

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

Screening Date 10-Sep-2010

Docket No. 2010-1485-EAQ-E

PCW

Respondent Lamb's Real Estate Investment I, LLC dba Lamb's Tire and Automotive Centers

Policy Revision 2 (September 2002)

Case ID No. 40368

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105793707

Media [Statute] Edwards Aquifer

Enf. Coordinator Marty Hott

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1) and 213.4(j)(1), and Water Pollution Abatement Plan ("WPAP") No. 11-09081901, Standard Conditions Nos. 2 and 6

Violation Description Failed to obtain approval of a modification to an approved WPAP prior to initiating physical and operational modifications to a water quality pond, as documented during an investigation conducted on August 13, 2010. Specifically, the water quality pond at the Site was not constructed as designed and approved in WPAP No. 11-09081901.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 28

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

Violation Base Penalty \$1,000

One monthly event is recommended from the investigation date (August 13, 2010) to the screening date (September 10, 2010).

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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$188

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

## Economic Benefit Worksheet

**Respondent** Lamb's Real Estate Investment I, LLC dba Lamb's Tire and Automotive Centers  
**Case ID No.** 40368  
**Reg. Ent. Reference No.** RN105793707  
**Media** Edwards Aquifer  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$6,000	13-Aug-2010	30-Mar-2011	0.63	\$188	n/a	\$188
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and submit a modified WPAP. The date required is the investigation date and the final date is the expected date of compliance.

### 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

\$6,000

**TOTAL**

\$188

Screening Date 10-Sep-2010 Docket No. 2010-1485-EAQ-E

PCW

Respondent Lamb's Real Estate Investment I, LLC dba Lamb's Tire and Automotive Centers

Policy Revision 2 (September 2002)

Case ID No. 40368

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105793707

Media [Statute] Edwards Aquifer

Enf. Coordinator Marty Hott

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1)

Violation Description

Failed to obtain approval of an Edwards Aquifer Protection Program ("EAPP") Aboveground Storage Tank ("AST") Facility Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone, as documented during an investigation conducted on August 13, 2010. Specifically, four ASTs with the cumulative capacity of 770 gallons were documented at the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			X		
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 28

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

Violation Base Penalty \$1,000

One monthly event is recommended from the investigation date (August 13, 2010) to the screening date (September 10, 2010).

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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$82

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

## Economic Benefit Worksheet

**Respondent** Lamb's Real Estate Investment I, LLC dba Lamb's Tire and Automotive Centers  
**Case ID No.** 40368  
**Reg. Ent. Reference No.** RN105793707  
**Media** Edwards Aquifer  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$2,600	13-Aug-2010	30-Mar-2011	0.63	\$82	n/a	\$82
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an application for an EAPP AST Facility Plan (for four ASTs). Date required is the investigation date. Final date is the expected date of compliance.

### Avoided Costs

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

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

\$2,600

**TOTAL**

\$82

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603526351 Lamb's Real Estate Investment I, LLC Classification: HIGH Rating: 0.00

Regulated Entity: RN105793707 LAMB'S TIRE AND AUTOMOTIVE CENTERS Classification: HIGH Site Rating: 0.00

ID Number(s): EDWARDS AQUIFER REGISTRATION 11-09081901

Location: 4101 SUNRISE ROAD, ROUND ROCK, WILLIAMSON COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: September 08, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 08, 2005 to September 08, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Marty Hott Phone: (512) 239-2587

## 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 08/24/2010 (848792)
  - 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.   
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	
<b>LAMB'S REAL ESTATE</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>INVESTMENT I, LLC DBA</b>	<b>§</b>	
<b>LAMB'S TIRE AND AUTOMOTIVE</b>	<b>§</b>	
<b>CENTERS</b>	<b>§</b>	
<b>RN105793707</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**AGREED ORDER  
DOCKET NO. 2010-1485-EAQ-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 Lamb's Real Estate Investment I, LLC dba Lamb's Tire and Automotive Centers ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an automotive center at 4101 Sunrise Road in Round Rock, Williamson County, Texas (the "Site").
2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
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 August 29, 2010.
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 Eight Hundred Dollars (\$1,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Four Hundred Forty Dollars (\$1,440) of the administrative penalty and Three Hundred Sixty Dollars (\$360) 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 on September 10, 2010, the Respondent submitted an administratively complete Water Pollution Abatement Plan ("WPAP") Modification Application for WPAP No. 11-09081901 to the TCEQ.
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 obtain approval of a modification to an approved WPAP prior to initiating physical and operational modifications to a water quality pond, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1) and 213.4(j)(1), and WPAP No. 11-09081901, Standard Conditions Nos. 2 and 6, as documented during an investigation conducted on August 13, 2010. Specifically, the water quality pond at the Site was not constructed as designed and approved in WPAP No. 11-09081901.
2. Failed to obtain approval of an Edwards Aquifer Protection Program ("EAPP") Aboveground Storage Tank ("AST") Facility Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1), as documented during an investigation conducted on August 13, 2010. Specifically, four ASTs with the cumulative capacity of 770 gallons were documented at the Site.

### 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: Lamb's Real Estate Investment I, LLC dba Lamb's Tire and Automotive Centers, Docket No. 2010-1485-EAQ-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. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the WPAP modification application within 30 days after the date of such requests or by any other deadline specified in writing, in order to obtain approval of the WPAP modification for WPAP No. 11-09081901;
  - b. Within 30 days after the effective date of this Agreed Order, either reduce the cumulative AST capacity at the Site to less than 500 gallons or submit an EAPP AST Facility Plan for review and approval to:

Edwards Aquifer Protection Program  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

- c. If an EAPP AST Facility Plan is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the EAPP AST Facility Plan within 30 days after the date of such requests or by any other deadline specified in writing; and
    - d. Within 45 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.b. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

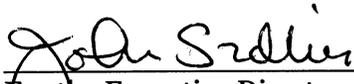
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in 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

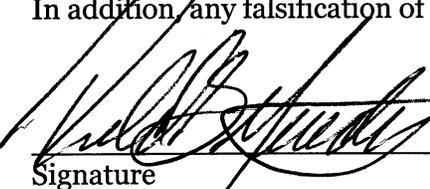
\_\_\_\_\_  
Date 12/27/2010

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

\_\_\_\_\_  
Date Nov 5, 2010

RONALD B MEREDETH  
Name (Printed or typed)  
Authorized Representative of  
Lamb's Real Estate Investment I, LLC dba  
Lamb's Tire and Automotive Centers

\_\_\_\_\_  
Title CEO

**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.