

Executive Summary – Enforcement Matter – Case No. 40461
Connie Rogers d/b/a Alamo Pumping BLU Site
RN103160156
Docket No. 2010-1591-SLG-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
SLG

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
Approximately three miles south-southwest of the City of San Juan, and approximately 1/3 mile east of the intersection of South Stewart Road and East Balli Road, Hidalgo County

Type of Operation:
unregistered beneficial land use ("BLU") site

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: \$2,140.00 (2009-0673-SLG-E)
Past-Due Fees: \$1,124.89 (0800436H); \$1,952.17 (0800521H)

Other: Respondent owes a total of \$5,217.06 in past-due administrative penalties and Sludge Transporter Fees.

Interested Third-Parties: None

Texas Register Publication Date: April 29, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$ 11,250

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$11,250

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average
Site/RN – Poor

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 3, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): August 12, 2010

Violation Information

1. Failed to obtain authorization for the land application of sewage sludge [30 TEX. ADMIN. CODE § 312.4(d) and TCEQ Default Order 2009-0673-SLG-E, Ordering Provisions 2.a. and 2.b.ii.]
2. Failed to pay overdue fees and penalties for Administrative Penalty Account No. 23605360, and TCEQ Municipal Sludge Transporter Fees associated with account Nos. 0800436H and 0800521H for Fiscal Years 2006 through 2010 [30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Immediately, cease all land application of sewage sludge at the Site until authorization is obtained.
2. Within 30 days:
 - a. Submit payment for all outstanding penalties and fees; and
 - b. Submit an administratively complete application to Register the Site for the Beneficial Use of Domestic Septage.
3. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: February 7, 2011; March 2, 2011
Date(s) Green Card(s) Signed: Unclaimed; March 4, 2011
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: James Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Sam Short, Waste Enforcement Section, (512) 239- 5363

Respondent: Connie Rogers, Owner, Alamo Pumping Services, RR 2 Box 74J, San Juan, Texas 78589

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-Aug-2010	Screening	21-Sep-2010	EPA Due	
	PCW	27-Sep-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Connie Rogers dba Alamo Pumping BLU Site		
Reg. Ent. Ref. No.	RN103160156		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40461	No. of Violations	2
Docket No.	2010-1591-SLG-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Carlie Konkol
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$2,250
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Notes	Enhancement for one default order.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$7	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$11,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,250
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$11,250
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Screening Date 21-Sep-2010

Docket No. 2010-1591-SLG-E

PCW

Respondent Connie Rogers dba Alamo Pumping BLU Site

Policy Revision 2 (September 2002)

Case ID No. 40461

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103160156

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

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	1	25%
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) 25%

>> 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 default order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 21-Sep-2010

Docket No. 2010-1591-SLG-E

PCW

Respondent Connie Rogers dba Alamo Pumping BLU Site

Policy Revision 2 (September 2002)

Case ID No. 40461

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103160156

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 312.4(d) and TCEQ Default Order 2009-0673-SLG-E, Ordering Provision Nos. 2.a. and 2.b.ii

Violation Description Failed to obtain authorization for the land application of sewage sludge, as documented during an investigation on June 3, 2010. Specifically, the Respondent allowed the disposal of sewage sludge onto a Beneficial Land Use site without first obtaining the required authorization.

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 9 Number of violation days 270

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

Violation Base Penalty \$9,000

Ten monthly events are recommended calculated from the December 3, 2009 effective date of Default Order 2009-0673-SLG-E to the August 30, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction	
Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	
Ordinary	
N/A	x (mark w th x)

\$0

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

Violation Subtotal \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$11,250

This violation Final Assessed Penalty (adjusted for limits) \$11,250

Economic Benefit Worksheet

Respondent Connie Rogers dba Alamo Pumping BLU Site
Case ID No. 40461
Req. Ent. Reference No. RN103160156
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$100	3-Dec-2009	31-May-2011	1.49	\$7	n/a	\$7
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an administratively correct and complete Application to Register a Site for Beneficial Land Application of Domestic Septage. The Date Required is the effective date of Default Order 2009-0673-SLG-E 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)

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

\$100

TOTAL

\$7

Screening Date 21-Sep-2010

Docket No. 2010-1591-SLG-E

PCW

Respondent Connie Rogers dba Alamo Pumping BLU Site

Policy Revision 2 (September 2002)

Case ID No. 40461

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103160156

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 312.9 and Tex. Water Code § 5.702

Violation Description Failed to pay overdue fees and penalties for Administrative Penalty Account No. 23605360 and TCEQ Municipal Sludge Transporter fees associated with Account Nos. 0800436H and 0800521H for fiscal years 2006 through 2010.

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
					0%

Matrix Notes

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0 Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Connie Rogers dba Alamo Pumping BLU Site
Case ID No. 40461
Req. Ent. Reference No. RN103160156
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Not Applicable.

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

Not Applicable.

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN601567597 Connie Rogers Classification: AVERAGE Rating: 20.00
 Regulated Entity: RN103160156 ALAMO PUMPING BLU SITE Classification: POOR Site Rating: 60.00
 ID Number(s): SLUDGE REGISTRATION 710674
 Location: APPROX .33 MI E OF THE INTX OF S STEWART RD AND BALLI RD, ON BALLI RD, SW OF SAN JUAN, HIDALGO COUNTY, TX
 TCEQ Region: REGION 15 - HARLINGEN
 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: Carlie Konkol Phone: (512) 239-0735

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 of the site during the compliance period? | Yes | |
| 3. If Yes, who is the current owner? | OPR | Connie Rogers |
| 4. If Yes, who was/were the prior owner(s)? | OWN | RUBOTTOM, SYLVIA |
| 5. When did the change(s) in ownership occur? | 4/30/2009 | OWN RUBOTTOM, SYLVIA |
| 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.

Effective Date: 12/3/2009 ADMINORDER 2009-0673-SLG-E
 Classification: Major
 Citation: 30 TAC Chapter 312, SubChapter A 312.4(d)
 Description: Failed to obtain authorization for the land application of sewage sludge.

- 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 08/12/2010 (826079)

- 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CONNIE ROGERS DBA
ALAMO PUMPING BLU SITE;
RN103160156**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1591-SLG-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the commission, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Connie Rogers DBA Alamo Pumping BLU Site ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates an unregistered beneficial land use ("BLU") site located approximately three miles south-southwest of the City of San Juan, and approximately 1/3 mile east of the intersection of South Stewart Road and East Balli Road in Hidalgo County, Texas (the "Site"). The Site involves the management and/or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361. Respondent has discharged waste from the Site into or adjacent to waters in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. During an investigation conducted on June 3, 2010, a TCEQ Harlingen Regional Office investigator documented that Respondent:
 - a. Failed to obtain authorization for the land application of sewage sludge. Specifically, Respondent allowed the disposal of sewage sludge onto the Site without first obtaining the required authorization from the TCEQ; and
 - b. Failed to pay overdue fees and penalties for Administrative Penalty Account No. 23605360 and TCEQ Municipal Sludge Transporter Fees associated with account Nos. 0800436H and 0800521H for fiscal years 2006 through 2010.
3. Respondent received notice of the violations on or about August 17, 2010.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an

Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Connie Rogers DBA Alamo Pumping BLU Site (the "EDPRP") in the TCEQ Chief Clerk's office on February 7, 2011.

5. By letter dated February 7, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
6. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Connie Rogers DBA Alamo Pumping BLU Site (the "EDFARP") in the TCEQ Chief Clerk's office on March 2, 2011.
7. By letter dated March 2, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on March 4, 2011, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP and the EDFARP, provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain authorization for the land application of sewage sludge, in violation of 30 TEX. ADMIN. CODE § 312.4(d) and TCEQ Default Order 2009-0673-SLG-E, Ordering Provision Nos. 2.a. and 2.b.ii.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to pay overdue fees and penalties for Administrative Penalty Account No. 23605360 and TCEQ Municipal Sludge Transporter Fees associated with account Nos. 0800436H and 0800521H for fiscal years 2006 through 2010, in violation of 30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702.
4. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Findings of Fact Nos. 6 and 7, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

6. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of eleven thousand two hundred fifty dollars (\$11,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of eleven thousand two hundred fifty dollars (\$11,250.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Connie Rogers DBA Alamo Pumping BLU Site; Docket No. 2010-1591-SLG-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondent shall cease all land application of sewage sludge at the Site until authorization is obtained; and
 - b. Within 30 days after the effective date of this Order, Respondent shall:

- i. Submit payment for all outstanding penalties and fees for Administrative Penalty Account No. 23605360 and TCEQ Municipal Sludge Transporter fees for Account Nos. 0800436H and 0800521H, including associated penalties and interest, to:

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

- ii. Submit an administratively complete Application to Register the Site for the Beneficial Use of Domestic Septage to:

Customer Information and Applications Processing Section
Attention: Applications Review and Processing Team, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3088

- c. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.b.ii. The certification shall be notarized by a State of Texas Notary Public and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

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

and:

Waste Section Manager, Region 15
Texas Commission on Environmental Quality
Harlingen Regional Office
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

"My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

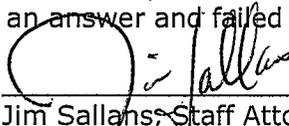
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Connie Rogers DBA Alamo Pumping BLU Site" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 7, 2011.

The EDPRP was mailed to Respondent's last known address on February 7, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Connie Rogers DBA Alamo Pumping BLU Site" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on March 2, 2011.

The EDFARP was mailed to Respondent's last known address on March 2, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDFARP on March 4, 2011, as evidenced by the signature on the card.

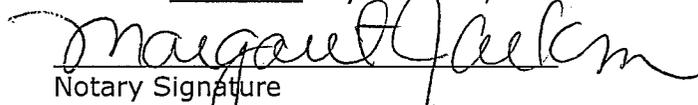
More than 20 days have elapsed since the Respondent received notice of the EDPRP and the EDFARP. Respondent failed to file an answer and failed to request a hearing.



Jim Sallans, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 7th day of March, A.D. 2011.



Notary Signature

