

Executive Summary – Enforcement Matter – Case No. 41288
YFZ Land, LLC
RN104250626
Docket No. 2011-0379-MLM-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
MLM (municipal waste discharge and water quality)

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
2420 County Road 300, Eldorado, Schleicher County

Type of Operation:
residential/community development project

Other Significant Matters:

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

Texas Register Publication Date: November 18, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$30,782

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: \$30,782

Compliance History Classifications:
Person/CN – Poor
Site/RN – Poor

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

YFZ Land, LLC

RN104250626

Docket No. 2011-0379-MLM-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: January 6, 2011
Date(s) of NOV(s): N/A
Date(s) of NOE(s): February 25, 2011

Violation Information

1. Failed to timely submit a copy of the signed daily log book to the TCEQ Regional Office [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014722001, Special Provisions No. 4]
2. Failed to timely submit a record of the Facility's daily inspections to the TCEQ Regional Office [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014722001, Special Provisions No. 5].
3. Failed to submit to the TCEQ Regional Office copies of all self-reported effluent monitoring performed by the third party and certified copies of all lab analyses each month [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014722001, Special Provisions No. 7].
4. Failed to maintain a complete fence and lockable gate around the wastewater treatment facility [30 TEX. ADMIN. CODE § 317.7(e)].
5. Failed to meet permitted effluent limitations [TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and TCEQ Permit No. WQ0014722001, Effluent Limitations and Monitoring Requirements A].
6. Failed to obtain authorization for discharges of storm water from construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26].
7. Failed to obtain authorization for the discharge of concrete washout wastewater and gravel rinse water [TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately, cease all unauthorized discharges of storm water related to construction activities, concrete washout wastewater and gravel rinse water until such time as authorization is obtained.
2. Within 30 days, fully enclose the wastewater treatment facility, update operational guidance, and conduct training to ensure that all required records, including monthly log books, inspection records, self reported effluent monitoring data, and copies of all lab analyses are submitted.
3. Within 60 days, submit an industrial wastewater permit application to authorize stormwater discharges associated with construction activity and discharges of concrete washout wastewater and gravel rinse water.
4. Respondent shall respond completely and adequately to all requests for additional information from the TCEQ within 30 days of such requests or within any other timeframes specified in writing by the TCEQ; and
5. Submit written certification to demonstrate compliance:
 - a. Within 45 days for Technical Requirements Nos. 1 and 2;
 - b. Within 75 days for Technical Requirement No. 3.

YFZ Land, LLC

RN104250626

Docket No. 2011-0379-MLM-E

Litigation Information

Date Petition(s) Filed: August 19, 2011

Date(s) Green Card(s) Signed: August 22, 2011

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

Contact Information

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

TCEQ Enforcement Coordinator: Steve Villatoro, Water Enforcement Section, (512) 239-4930

TCEQ Regional Contact: Chris Mayben, San Angelo Regional Office, (325) 655-9479

Respondent: Louis Jessop, Manager, YFZ Land, LLC, P.O. Box 715, Eldorado, Texas 76936

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Feb-2011	Screening	10-Mar-2011	EPA Due	
	PCW	30-Jun-2011				

RESPONDENT/FACILITY INFORMATION						
Respondent	YFZ Land, LLC					
Reg. Ent. Ref. No.	RN104250626					
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	41288	No. of Violations	7			
Docket No.	2011-0379-MLM-E	Order Type	1660			
Media Program(s)	Water Quality	Government/Non-Profit	No			
Multi-Media	Water Quality	Enf. Coordinator	Steve Villatoro			
		EC's Team	Enforcement Team 1			
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,600
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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	97.0% Enhancement	Subtotals 2, 3, & 7	\$15,132
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Notes	Enhancement for one dissimilar NOV, three orders with denial, repeat violator status and poor performer classification.		
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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	\$451	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$11,260	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$30,732
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.2%	Adjustment	\$50
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to recover avoided cost of compliance associated with violation no. 3.		
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Final Penalty Amount	\$30,782
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$30,782
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.		
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PAYABLE PENALTY	\$30,782
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Screening Date 10-Mar-2011
Respondent YFZ Land, LLC
Case ID No. 41288
Reg. Ent. Reference No. RN104250626
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2011-0379-MLM-E

PCW

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

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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	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) 62%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one dissimilar NOV, three orders with denial, repeat violator status and poor performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 97%

Screening Date 10-Mar-2011
Respondent YFZ Land, LLC
Case ID No. 41288
Reg. Ent. Reference No. RN104250626
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2011-0379-MLM-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0014722001, Special Provisions No. 4

Violation Description Failed to timely submit a copy of the signed daily logbook to the TCEQ Regional Office, as documented during an investigation conducted on January 6, 2011. Specifically, copies of the attendance logs for the months of January, February, and December 2009, and March through December of 2010, were not submitted by the 20th day of the following month to the TCEQ San Angelo Regional Office.

Base Penalty

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text" value="1%"/>

Matrix Notes At least 70% of the permit requirement was met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Thirteen single events are recommended, one for each month that records were not submitted.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent YFZ Land, LLC
Case ID No. 41288
Req. Ent. Reference No. RN104250626
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				0.00	\$0	n/a	\$0
Other (as needed)	\$130	20-Feb-2010	26-Jan-2011	0.93	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to submit copies of the signed monthly logbook to the regional office (\$10 per month). Date required is the date the first missing logbook was due. Final date is the date compliance was achieved. Additional economic benefit included with violation no. 3.

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

\$130

TOTAL

\$6

Screening Date 10-Mar-2011
Respondent YFZ Land, LLC
Case ID No. 41288
Reg. Ent. Reference No. RN104250626
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2011-0379-MLM-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0014722001, Special Provisions No. 5

Violation Description

Failed to timely submit a record of the Facility's daily inspections to the TCEQ Regional Office, as documented during an investigation conducted on January 6, 2011. Specifically, copies of the daily inspections for the months of January, February, and December 2009, and March through December of 2010, were not submitted by the 20th day of the following month to the TCEQ San Angelo Regional Office.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1%

Matrix Notes

At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 13 340 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,300

Thirteen single events are recommended, one for each month that records were not submitted.

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 \$1,300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$2,565

This violation Final Assessed Penalty (adjusted for limits) \$2,565

Economic Benefit Worksheet

Respondent YFZ Land, LLC
Case ID No. 41288
Req. Ent. Reference No. RN104250626
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
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)	\$130	20-Feb-2010	26-Jan-2011	0.93	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to submit copies of monthly inspection records to the regional office (\$10 per month). Date required is the date the first month's records were due. Final date is the date compliance was achieved. Additional economic benefit included with violation no. 3.

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

\$130

TOTAL

\$6

Screening Date 10-Mar-2011
Respondent YFZ Land, LLC
Case ID No. 41288
Reg. Ent. Reference No. RN104250626
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2011-0379-MLM-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0014722001, Special Provisions No. 7

Violation Description

Failed to submit copies of all self-reported effluent monitoring performed by the third party and certified copies of all lab analyses each month to the TCEQ Regional Office, as documented during an investigation conducted on January 6, 2011. Specifically, monthly effluent monitoring records and lab analyses from July through November 2010 had not been submitted to the TCEQ San Angelo Regional Office.

Base Penalty \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the permit requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5 159 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Five single events are recommended, one for each month that records were not submitted.

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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$59

Violation Final Penalty Total \$9,866

This violation Final Assessed Penalty (adjusted for limits) \$9,866

Economic Benefit Worksheet

Respondent YFZ Land, LLC
Case ID No. 41288
Req. Ent. Reference No. RN104250626
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$250	6-Jan-2011	6-Jul-2011	0.50	\$6	n/a	\$6
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

Estimated cost to update operational guidance and conduct employee training to ensure that copies of all required records, including monthly logbooks, inspection records, self-reported monitoring data, and certified copies of lab analyses are submitted to the regional office. 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)

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)	\$50	20-Aug-2010	20-Dec-2010	1.25	\$3	\$50	\$53

Notes for AVOIDED costs

Estimated avoided cost for failing to submit copies of monthly self-reported monitoring data and certified copies of lab analyses to the regional office (\$10 per month). Date required is the date the first month's data was due. Final date is the date the last month's data was due.

Approx. Cost of Compliance \$300

TOTAL \$59

Screening Date 10-Mar-2011
Respondent YFZ Land, LLC
Case ID No. 41288
Reg. Ent. Reference No. RN104250626
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2011-0379-MLM-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 317.7(e)

Violation Description Failed to maintain a complete fence and lockable gate around the wastewater treatment facility, as documented during an investigation conducted on January 6, 2011. Specifically, two openings were noted in the fence around the treatment ponds.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential			x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed protective levels as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 53 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date (January 6, 2011) to the compliance date (February 28, 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 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 \$2

Violation Final Penalty Total \$1,973

This violation Final Assessed Penalty (adjusted for limits) \$1,973

Economic Benefit Worksheet

Respondent YFZ Land, LLC
Case ID No. 41288
Req. Ent. Reference No. RN104250626
Media Water Quality
Violation No. 4

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	\$200	6-Jan-2011	28-Feb-2011	0.15	\$0	\$2	\$2
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

Estimated cost to completely enclose the Facility with a fence and lockable gate. Date required is the investigation date. Final date is the date compliance was achieved.

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

\$200

TOTAL

\$2

Screening Date 10-Mar-2011
Respondent YFZ Land, LLC
Case ID No. 41288
Reg. Ent. Reference No. RN104250626
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2011-0379-MLM-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code 26.121(a)(1), and TCEQ Permit No. WQ0014722001, Effluent Limitations and Monitoring Requirements A

Violation Description Failed to meet permitted effluent limitations, as documented during an investigation conducted on January 6, 2011. Specifically, a grab sample collected during the investigation showed a pH of 9.4 standard units ("s.u."). The permit limit for pH is 9.0 s.u.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed protective levels as a result of this violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended based on the date the violation was documented.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent YFZ Land, LLC
Case ID No. 41288
Req. Ent. Reference No. RN104250626
Media Water Quality
Violation No. 5

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				0.00	\$0	n/a	\$0
Other (as needed)	\$500	6-Jan-2011	28-Feb-2011	0.15	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to make necessary adjustments to the Facility to return to compliance with the pH limitations. Date required is the investigation date. Final date is the 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

\$500

TOTAL

\$4

Screening Date 10-Mar-2011
Respondent YFZ Land, LLC
Case ID No. 41288
Reg. Ent. Reference No. RN104250626
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2011-0379-MLM-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26
Violation Description Failed to obtain authorization for discharges of stormwater from construction activities, as documented during an investigation conducted on January 6, 2011. Specifically, construction related to the installation of a potable water line was occurring without authorization for stormwater discharges.

Base Penalty \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Three monthly events are recommended from the investigation date (January 6, 2011) to the screening date (March 10, 2011).

Good Faith Efforts to Comply

	0.0% Reduction	
	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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$374

Violation Final Penalty Total \$5,920

This violation Final Assessed Penalty (adjusted for limits) \$5,920

Economic Benefit Worksheet

Respondent YFZ Land, LLC
Case ID No. 41288
Req. Ent. Reference No. RN104250626
Media Water Quality
Violation No. 6

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	\$10,000	6-Jan-2011	6-Oct-2011	0.75	\$374	n/a	\$374
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an application for coverage for an individual wastewater discharge permit. 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)

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$374

Screening Date 10-Mar-2011
Respondent YFZ Land, LLC
Case ID No. 41288
Reg. Ent. Reference No. RN104250626
Media [Statute] Water Quality
Enf. Coordinator Steve Villatoro

Docket No. 2011-0379-MLM-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 7

Rule Cite(s) Tex. Water Code § 26.121(a)(1)

Violation Description
 Failed to obtain authorization for the discharge of concrete washout wastewater and gravel rinse wastewater, as documented during an investigation conducted on January 6, 2011. Specifically, both concrete washout wastewater and gravel rinse wastewater are being discharged to earthen basins without authorization.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	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

		3	63	Number of violation days
<i>mark only one with an x</i>	daily			Violation Base Penalty \$3,000
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			

Three monthly events are recommended from the investigation date (January 6, 2011) to the screening date (March 10, 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 Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,920

This violation Final Assessed Penalty (adjusted for limits) \$5,920

Economic Benefit Worksheet

Respondent YFZ Land, LLC
Case ID No. 41288
Req. Ent. Reference No. RN104250626
Media Water Quality
Violation No. 7

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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in violation no. 6.

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

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN602616344 YFZ Land, LLC Classification: POOR Rating: 71.04
Regulated Entity: RN104250626 YFZ LAND Classification: POOR Site Rating: 275.14
ID Number(s): AIR NEW SOURCE PERMITS REGISTRATION 72147
AIR NEW SOURCE PERMITS PERMIT 72151
AIR NEW SOURCE PERMITS REGISTRATION 73164
AIR NEW SOURCE PERMITS REGISTRATION 76798
WASTEWATER PERMIT WQ0014722001
SLUDGE REGISTRATION 23760
Location: 2420 COUNTY ROAD 300 (APPROXIMATELY SIX MI. NE OF THE
INTER. OF US HWY 277 AND CR 300), SCHLEICHER CO., ELDORADO, TX, 76936
TCEQ Region: REGION 08 - SAN ANGELO
Date Compliance History Prepared: March 01, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 01, 2006 to March 01, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Evette Alvarado Phone: (512) 239-2573

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: YES

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: 08/20/2006

ADMINORDER 2004-0800-MLM-E

Classification: Major

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)

Rqmt Prov: TXR150000 PERMIT

Description: Failure to obtain storm water authorization for construction activity under the TPDES CGP.

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter A 382.0518(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: YXZ LLC., was found to be operating a concrete batch plant without proper registration.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter W 106.512(1)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Company failed to register two (2) diesel/generator engines under Permit by Rule (PBR) 106.512 prior to construction and operation of the engines.

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 331, SubChapter A 331.3(a)

Description: Failure to obtain authorization from the Texas Commission on Environmental Quality for the construction and use of a Class V injection well that resulted in an unauthorized discharge into or adjacent to waters in the state.

Classification: Major

Citation: 5B THC Chapter 366, SubChapter A 366.051(a)

Description: Failure to obtain a permit and an approved plan to construct alter, repair, extend, or operate an on-site sewage disposal system.

Classification: Major

Citation: 30 TAC Chapter 106, SubChapter E 106.142
5C THC Chapter 382, SubChapter A 382.085(b)

Description: YFZ Land LLC., was found to have operated a rock crusher without the proper authorization.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THC Chapter 382, SubChapter D 382.085(b)

Description: YFZ Land LLC. conducted unauthorized outdoor burying in the caliche pit where the concrete batch plant is located.

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter E 106.144(4)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: YFZ Land LLC., is operating a volumetric concrete truck to complete concrete work. This truck is mobile, however, Permit by Rule (PBR) 106.144 requires the storage silo to be registered for this type of operation.

Classification: Major

Citation: 30 TAC Chapter 210, SubChapter A 210.5(a)

Description: Unauthorized disposal of wastewater by using it for dust suppressant.

Classification: Major

Citation: 30 TAC Chapter 330, SubChapter A 330.5(c)

Description: Failed to obtain authorization from the Commission prior to dumping municipal solid waste at the Site.

Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.4(1)
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)(1)

Description: Failure to properly label containers of used oil with "Used Oil".

Classification: Moderate

Rqmt Prov: TXR151300 PERMIT

Description: The storm water pollution prevention plan was lacking in that it did not include an accurate and complete list of potential pollutants and sources, the intended schedule of construction, total and construction acreage, soil type, complete site map, name of the receiving water, copy of the construction general permit.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.5(a)(3)

Description: Failing to prevent a discharge of diesel fuel to the soil at the Site.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to comply with the general prohibition on outdoor burning. Specifically, it was documented that municipal solid waste, including aluminum, plastic pipes, insulation, cardboard, and other metals and plastics, was being burned at the site.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Special Conditions No. 4.D. PERMIT

Description: Failure to install a cartridge filter on the bulk storage silo in accordance with permit requirements. An unapproved emission control device (baghouse) was being utilized to control particulates.

Effective Date: 09/21/2006

ADMINORDER 2005-1430-MLM-E

Classification: Major

Citation: 30 TAC Chapter 330, SubChapter A 330.5(a)(1)

Description: Failure to properly manage a solid waste so as to prevent the discharge or imminent threat of discharge of solid waste into or adjacent to the waters in the state without obtaining specific authorization for such discharge from the commission.

Classification: Moderate

Citation: TWC Chapter 26 26.121(a)(1)

Description: Failure to prevent an unauthorized discharge of wastewater from a wastewater holding tank.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.51(a)(7)

Description: Failure to prevent a discharge of a solid waste (petroleum hydrocarbons) to the ground so as to prevent the discharge or imminent threat of discharge of solid waste into or adjacent to the waters in the state without obtaining specific authorization for such discharge from the commission.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.5(c)

Description: Failure to comply with the general prohibitions involving municipal solid waste.

Classification: Moderate

Citation: 30 TAC Chapter 332, SubChapter A 332.3(a)

Description: Failure to comply with the requirements regarding composting.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to comply with the general prohibition against outdoor burning in the State of Texas

Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to obtain an air quality authorization prior to construction and subsequent operation for a facility that emits air contaminants in the State of Texas

Effective Date: 11/18/2006

ADMINORDER 2006-0394-MLM-E

Classification: Major

Citation: 2F TWC Chapter 37, SubChapter L 37.003
30 TAC Chapter 30, SubChapter A 30.5(a)
30 TAC Chapter 344, SubChapter A 344.4

Description: Failure to obtain a license before engaging in landscape irrigation activities. Specifically, YFZ began construction of a lawn sprinkler system on their property before obtaining the license.

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure to prevent an unauthorized discharge of wastewater from a wastewater holding tank. Specifically, erosion and saturated ground were documented surrounding the riser of a holding tank at a residential structure immediately east of the temple.

Classification: Major

Citation: 30 TAC Chapter 330, SubChapter A 330.5(a)(3)

Description: Failure to prevent an unauthorized discharge/disposal of process wastewater from a holding pond that collects comingled storm water and concrete batch plant process water.

Classification: Major

Citation: 30 TAC Chapter 330, SubChapter A 330.5(a)(3)

Description: Failure to prevent an unauthorized discharge of a petroleum hydrocarbon. Specifically, an area several feet in diameter of hydrocarbon stained soil was documented near the welding shop.

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	02/02/2007	(533700)
2	04/03/2007	(555603)
3	11/14/2008	(708245)
4	11/24/2009	(783261)
5	02/25/2011	(891070)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/02/2007 (533700) CN602616344

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TXR150000 PERMIT

Description: Failure to conduct inspections of structural controls according to permit requirements.

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
YFZ LAND, LLC;
RN104250626**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-0379-MLM-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, 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 YFZ Land, LLC (the "Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a residential/community development project located at 2420 County Road 300 in Eldorado, Schleicher County, Texas (the "Facility"). Respondent has discharged waste from the Facility into or adjacent to any water 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 January 6, 2011, a TCEQ San Angelo Regional Office investigator documented that Respondent:
 - a. Failed to timely submit a copy of the signed daily log book to the TCEQ Regional Office. Specifically, copies of the attendance logs for the months of January, February and December 2009, and March through December 2010, were not submitted to the TCEQ San Angelo Regional Office by the 20th day of the following month;
 - b. Failed to timely submit a record of the Facility's daily inspections to the TCEQ Regional Office. Specifically, copies of the daily inspections for the months of January, February and December 2009, and March through December 2010, were not submitted to the TCEQ San Angelo Regional Office by the 20th day of the following month;
 - c. Failed to submit to the TCEQ San Angelo Regional Office copies of all self-reported effluent monitoring performed by the third party and certified copies of all lab analyses each month to the TCEQ Regional Office. Specifically, monthly effluent monitoring records and lab analyses from July through November 2010, were not submitted;

- d. Failed to maintain a complete fence and lockable gate around the wastewater treatment facility. Specifically, two openings were noted in the fence around the treatment ponds;
 - e. Failed to meet permitted effluent limitations. Specifically, a grab sample collected during the investigation showed a pH of 9.4 standard units ("s.u."). Respondent's permit limit for pH is 9.0 s.u.;
 - f. Failed to obtain authorization for discharges of storm water from construction activities. Specifically, construction related to the installation of a potable water line was occurring without authorization for stormwater discharges; and
 - g. Failed to obtain authorization for the discharge of concrete washout wastewater and gravel rinse wastewater.
3. Respondent received notice of the violations on or about March 2, 2011.
 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 YFZ Land, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on August 19, 2011.
 5. By letter dated August 19, 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. According to the return receipt "green card," Respondent received notice of the EDPRP on August 22, 2011, as evidenced by the signature on the card.
 6. More than 20 days have elapsed since Respondent received notice of the EDPRP. 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 ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to timely submit a copy of the signed daily log book to the TCEQ Regional Office, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014722001, Special Provisions No. 4.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to timely submit a record of the Facility's daily inspections to the TCEQ Regional Office, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014722001, Special Provisions No. 5.

4. As evidenced by Finding of Fact No. 2.c., Respondent failed to submit copies of all self-reported effluent monitoring performed by the third party and certified copies of all lab analyses each month to the TCEQ Regional Office, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014722001, Special Provisions No. 7.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to maintain a complete fence and lockable gate around the wastewater treatment facility, in violation of 30 TEX. ADMIN. CODE § 317.7(e).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to meet permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1); 30 TEX. ADMIN. CODE § 305.125(1); and TCEQ Permit No. WQ0014722001, Effluent Limitations and Monitoring Requirements A.
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to obtain authorization for discharges of storm water from construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26.
8. As evidenced by Finding of Fact No. 2.g., Respondent failed to obtain authorization for the discharge of concrete washout wastewater and gravel rinse water, in violation of TEX. WATER CODE § 26.121(a)(1[gb1]).
9. 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(a).
10. As evidenced by Finding of Fact No. 6, 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.
11. 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.
12. An administrative penalty in the amount of thirty thousand seven hundred eighty-two dollars (\$30,782.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
13. 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 thirty thousand seven hundred eighty-two dollars (\$30,782.00) 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: YFZ Land, LLC; Docket No. 2011-0379-MLM-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 unauthorized discharges of storm water related to construction activities, concrete washout wastewater and gravel rinse water until such time as authorization is obtained in accordance with 30 TEX. ADMIN. CODE ch. 281 and TEX. WATER CODE ch. 26 (Conclusions of Law Nos. 7 and 8);
 - b. Within 30 days after the effective date of this Order, Respondent shall fully enclose the wastewater treatment facility, update operational guidance, and conduct training to ensure that all required records, including monthly log books, inspection records, self reported effluent monitoring data, and copies of all lab analyses are submitted to the TCEQ San Angelo Regional Office, in accordance with 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014722001, Special Provisions Nos. 4, 5, and 7 (Conclusions of Law Nos. 2, 3, 4, 5 and 6);
 - c. Within 45 days after the effective date of this Order, Respondent shall submit written certification of compliance with Ordering Provisions Nos. 3.a. and 3.b., in accordance with Ordering Provision No. 3.g.;
 - d. Within 60 days after the effective date of this Order, Respondent shall submit an industrial wastewater permit application to authorize stormwater discharges associated with construction activity and discharges of concrete washout wastewater and gravel rinsewater. The application shall be submitted to:

Applications Review and Processing Team
Water Quality Division, MC 145
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- e. Respondent shall respond completely and adequately to all requests for additional information from the TCEQ within 30 days of such requests or within any other timeframes specified in writing by the TCEQ; and
- f. Within 75 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 3.g., below, to demonstrate compliance with Ordering Provision No. 3.d.
- g. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, 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 certifications and supporting 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
Texas Commission on Environmental Quality
San Angelo Regional Office
622 South Oaks, Suite K
San Angelo, Texas 76903-7013

- 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 Facility 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS

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COUNTY OF TRAVIS

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"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 YFZ Land, LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on August 19, 2011.

The EDPRP was mailed to Respondent's last known address on August 19, 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 EDPRP on August 22, 2011, as evidenced by the signature on the card.

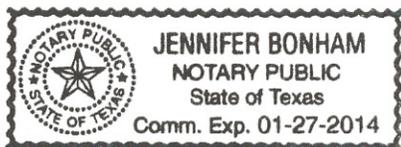
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.



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 18th day of November, A.D. 2011.



Notary Without Bond



Notary Signature