

Executive Summary – Enforcement Matter – Case No. 42508

AAA Sanitation, Inc.

RN100632249

Docket No. 2011-1642-SLG-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

SLG

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

AAA Sanitation, approximately one mile south of the intersection of Farm-to-Market (“FM”) Road 317 and FM 314 on the east side of FM 314, Henderson County

Type of Operation:

Beneficial land use site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 3, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,960

Amount Deferred for Expedited Settlement: \$2,592

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$864

Total Due to General Revenue: \$9,504

Payment Plan: 11 payments of \$864 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 42508

AAA Sanitation, Inc.

RN100632249

Docket No. 2011-1642-SLG-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 22, 2011

Date(s) of NOE(s): September 7, 2011

Violation Information

1. Failed to submit written notice and receive authorization from the TCEQ of any changes to the source of sewage sludge. Specifically, the Respondent transported and disposed of sewage sludge from the City of Hawkins, Tall Timbers Utilities, Woodmark Utilities, The Villages and others without first notifying and obtaining authorization from the TCEQ Water Quality Division to land apply the new sludge [Permit No. 04551, Section IV, General Requirements No. C.7. and 30 TEX. ADMIN. CODE § 312.11(j)].
2. Failed to land apply sewage sludge at an annual rate not to exceed 1.96 dry tons per acre per year. Specifically, the Respondent land applied sewage sludge at a rate of 146.8 dry tons per acre per year [Permit No. 04551, Section III, General Description and Location of Site and 30 TEX. ADMIN. CODE §§ 312.42(a) and 312.44(e)].
3. Failed to properly report the type of waste disposed of at the Facility on the annual summary report (“ASR”). Specifically, the Respondent transported and land applied wastewater treatment plant sludge and not water treatment plant sludge as reported on the ASR for years 2009, 2010 and 2011 [Permit No. 04551, Section XI, Reporting Requirements No. A.4 and 30 TEX. ADMIN. CODE § 305.125(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, begin land applying sewage sludge at an annual rate not to exceed the permit limit;
- b. Immediately, cease taking sludge from unauthorized sources until proper authorization is obtained from the TCEQ;
- c. Within 15 days, submit written notification to the TCEQ of any changes to the sources of sewage sludge;

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RN100632249

Docket No. 2011-1642-SLG-E

d. Within 30 days, submit revised ASRs for years 2009, 2010 and 2011 to include the correct type of waste that was land applied; and

e. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Jimmie Banks, Owner, AAA Sanitation, Inc., 1500 West Claude Street, Tyler, Texas 75702

Flora Banks, President, AAA Sanitation, Inc., 1500 West Claude Street, Tyler, Texas 75702

Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 12-Sep-2011 | Screening | 13-Sep-2011 | EPA Due |
| | PCW | 19-Sep-2011 | | | |

| | | | |
|----------------------------------------|----------------------|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | AAA Sanitation, Inc. | | |
| Reg. Ent. Ref. No. | RN100632249 | | |
| Facility/Site Region | 5-Tyler | Major/Minor Source | Minor |

| | | | |
|----------------------------------------|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 42508 | No. of Violations | 3 |
| Docket No. | 2011-1642-SLG-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Jorge Ibarra, P.E. |
| | | 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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for one order with denial of liability.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 13-Sep-2011

Docket No. 2011-1642-SLG-E

PCW

Respondent AAA Sanitation, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42508

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100632249

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|-----------------------------------------------------------------------------------------------------------------------|----|----|
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 20%

>> 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 order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 13-Sep-2011

Docket No. 2011-1642-SLG-E

PCW

Respondent AAA Sanitation, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42508

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100632249

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Permit No. 04551, Section IV, General Requirements No. C.7. and 30 Tex. Admin. Code § 312.11(j)

Violation Description

Failed to submit written notice and receive authorization from the TCEQ for any changes to the source of sewage sludge. Specifically, the Respondent disposed of sewage sludge from the City of Hawkins, Tall Timbers Utilities, Woodmark Utilities, The Villages and others without first notifying and obtaining authorization from the TCEQ Water Quality Division to land apply the new sludge.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | x | | |

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

83 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 investigation date of June 22, 2011 to the screening date of September 13, 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 \$11

Violation Final Penalty Total \$3,600

This violation Final Assessed Penalty (adjusted for limits) \$3,600

Economic Benefit Worksheet

Respondent AAA Sanitation, Inc.
Case ID No. 42508
Req. Ent. Reference No. RN100632249
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 | \$250 | 22-Jun-2011 | 1-May-2012 | 0.86 | \$11 | n/a | \$11 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to submit the required written notification to the TCEQ of any changes to the source of sewage sludge. Date required is the investigation date and the final date is the expected compliance date.

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

\$250

TOTAL

\$11

Screening Date 13-Sep-2011

Docket No. 2011-1642-SLG-E

PCW

Respondent AAA Sanitation, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42508

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100632249

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

Permit No. 04551, Section III, General Description and Location of Site and 30 Tex. Admin. Code §§ 312.42(a) and 312.44(e)

Violation Description

Failed to land apply sewage sludge at an annual rate not to exceed 1.96 dry tons per acre per year. Specifically, the Respondent land applied sewage sludge at a rate of 146.8 dry tons per acre per year.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | X | |
| Potential | | | |

Percent 25%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

83 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | X |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$7,500

Three monthly events are recommended from investigation date of June 22, 2011 to the screening date of September 13, 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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

Economic Benefit Worksheet

Respondent AAA Sanitation, Inc.
Case ID No. 42508
Reg. Ent. Reference No. RN100632249
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) | \$500 | 22-Jun-2011 | 1-Jun-2012 | 0.95 | \$24 | n/a | \$24 |

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure that sewage sludge is applied at an annual rate not to exceed 1.96 dry tons per acre per year. Date required is the investigation date and the final date is the expected compliance date.

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

\$24

Screening Date 13-Sep-2011

Docket No. 2011-1642-SLG-E

PCW

Respondent AAA Sanitation, Inc.

Policy Revision 2 (September 2002)

Case ID No. 42508

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100632249

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s)

Permit No. 04551, Section XI, Reporting Requirements No. A.4 and 30 Tex. Admin. Code § 305.125(1)

Violation Description

Failed to properly report the type of waste disposed of at the Facility on the annual summary report ("ASR"). Specifically, the Respondent transported and land applied wastewater treatment plant sludge and not water treatment plant sludge as reported on the ASR for years 2009, 2010 and 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | X |

Percent 1%

Matrix Notes

More than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 3

3 Number of violation days

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

Violation Base Penalty \$300

Three single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

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

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$360

This violation Final Assessed Penalty (adjusted for limits) \$360

Economic Benefit Worksheet

Respondent AAA Sanitation, Inc.
Case ID No. 42508
Req. Ent. Reference No. RN100632249
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 | | | | 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) | \$50 | 22-Jun-2011 | 1-May-2012 | 0.86 | \$2 | n/a | \$2 |

Notes for DELAYED costs

Estimated cost to properly report the type of waste on the ASR. Date required is the investigation date and the final date is the expected compliance date.

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

\$50

TOTAL

\$2

Compliance History

| | | | | |
|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------------|--------------------|
| Customer/Respondent/Owner-Operator: | CN602522716 | AAA Sanitation, Inc. | Classification: AVERAGE | Rating: 9.50 |
| Regulated Entity: | RN100632249 | AAA SANITATION | Classification: AVERAGE | Site Rating: 16.00 |
| ID Number(s): | SLUDGE | REGISTRATION | | 20253 |
| | SLUDGE | PERMIT | | WQ0004551000 |
| Location: | located approximately one mile south of the intersection of Farm-to-Market ("FM") Road 317 and FM 314 on the east side of FM 314 in Henderson County, Texas | | | |
| TCEQ Region: | REGION 05 - TYLER | | | |
| Date Compliance History Prepared: | September 20, 2011 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | September 20, 2006 to September 20, 2011 | | | |

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

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: 9/1/2011 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: 06/19/2008 ADMINORDER 2008-0137-SLG-E
 Classification: Major
 Citation: 30 TAC Chapter 312, SubChapter G 312.143
 TWC Chapter 26 26.121

Description: Failure to prevent an unauthorized discharge from a sludge/septage transporter. Mr. Smith learned that Rusk State Hospital (Hospital) security personnel encountered a AAA Sanitation septic transport truck discharging on the Hospital's property on the east side of Highway 69. Mr. Smith was also told that Mr. Shannon Banks, representing AAA Sanitation, had also already met with the Hospital staff and admitted the driver did indeed discharge the waste.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|---|------------|----------|
| 1 | 03/19/2007 | (554048) |
| 2 | 07/21/2009 | (761901) |
| 3 | 08/19/2009 | (766365) |
| 4 | 07/14/2011 | (937250) |
| 5 | 09/07/2011 | (937507) |

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AAA SANITATION, INC.
RN100632249**

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

**AGREED ORDER
DOCKET NO. 2011-1642-SLG-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 AAA Sanitation, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a beneficial land use site located approximately one mile south of the intersection of Farm-to-Market ("FM") Road 317 and FM Road 314 on the east side of FM Road 314 in Henderson County, Texas (the "Facility").
2. The Respondent involves or involved in the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
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 September 12, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Nine Hundred Sixty Dollars (\$12,960) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Hundred Sixty-Four Dollars

(\$864) of the administrative penalty and Two Thousand Five Hundred Ninety-Two Dollars (\$2,592) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand Five Hundred Four Dollars (\$9,504) of the administrative penalty shall be payable in eleven monthly payments of Eight Hundred Sixty-Four Dollars (\$864) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 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.
10. 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.
11. 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 Facility, the Respondent is alleged to have:

1. Failed to submit written notice and receive authorization from the TCEQ of any changes to the source of sewage sludge, in violation of Permit No. 04551, Section IV, General Requirements No. C.7. and 30 TEX. ADMIN. CODE § 312.11(j), as documented during an investigation conducted on June 22, 2011. Specifically, the Respondent transported and disposed sewage sludge from the City of Hawkins, Tall Timbers Utilities, Woodmark

Utilities, The Villages and others without first notifying and obtaining authorization from the TCEQ Water Quality Division to land apply the new sludge.

2. Failed to land apply sewage sludge at an annual rate not to exceed 1.96 dry tons per acre per year, in violation of Permit No. 04551, Section III, General Description and Location of Site and 30 TEX. ADMIN. CODE §§ 312.42(a) and 312.44(e), as documented during an investigation conducted on June 22, 2011. Specifically, the Respondent land applied sewage sludge at a rate of 146.8 dry tons per acre per year.
3. Failed to properly report the type of waste disposed of at the Facility on the annual summary report ("ASR"), in violation of Permit No. 04551, Section XI, Reporting Requirements No. A.4 and 30 TEX. ADMIN. CODE § 305.125(1), as documented during an investigation conducted on June 22, 2011. Specifically, the Respondent transported and land applied wastewater treatment plant sludge and not water treatment plant sludge as reported on the ASR for years 2009, 2010 and 2011.

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: AAA Sanitation, Inc., Docket No. 2011-1642-SLG-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. Immediately after the effective date of this Agreed Order, begin land applying sewage sludge at an annual rate not to exceed the permit limit;
 - b. Immediately upon the effective date of this Agreed Order, cease taking sludge from unauthorized sources until proper authorization is obtained from the TCEQ;

- c. Within 15 days after the effective date of this Agreed Order, submit written notification to the TCEQ of any changes to the sources of sewage sludge;
- d. Within 30 days after the effective date of this Agreed Order, submit revised ASRs for years 2009, 2010 and 2011 to include the correct type of waste that was land applied; and
- e. 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 Nos. 2.a. through 2.d. 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent

shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

AAA Sanitation, Inc.
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

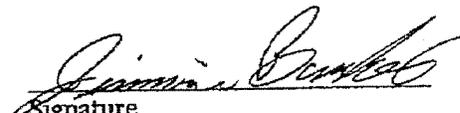
3/23/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

3/7/12
Date

Jummie Banks
Name (Printed or typed)
Authorized Representative of
AAA Sanitation, Inc.

owner
Title

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