

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 41338
AVONDALE RANCH, LTD., NRH Woodland Estates, L.P.,
and BUCK DEVELOPMENT SERVICES, L.L.C.
RN102841301
Docket No. 2011-0430-IHW-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

IHW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

6601 Crane Road, North Richland Hills, Tarrant County;

9012 Cedar Bluffs Drive, North Richland Hills, Tarrant County

Type of Operation:

residential housing development, formerly the Sonricker Oil facility

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: \$454.76

Other: This action concerns a lot which is part of a 16-acre residential development project.

Interested Third-Parties: None

Texas Register Publication Date: April 27, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,000

Total Paid to General Revenue: \$170

Total Due to General Revenue: \$4,830

Payment Plan: 35 payments of \$138 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average (All 3 Respondents)

Site/RN – Average

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): November 30, 2009
Complaint Information: Complainant alleged pockets of sheen and oily substances coming up through the ground, sidewalk, and driveway. This same problem also occurred in 2005 and some cleanup activities were performed. It appears that the same problem is recurring.

Date(s) of Investigation: October 5, 2010; February 16, 2011; March 21, 2011

Date(s) of NOV(s): N/A

Date(s) of NOE(s): February 23, 2011; April 15, 2011

Violation Information

1. Failed to prevent the collection, storage, handling and disposal of industrial solid waste in a manner which threatened the discharge of industrial solid waste into or adjacent to water in the state. Petroleum hydrocarbon resembling used oil was observed on a sidewalk, in driveway cracks and around two drains at the Site; soil samples contained elevated levels of total petroleum hydrocarbon ranging from 79.7 milligrams per kilogram ("mg/kg") to 3,277 mg/kg. [TEX. WATER CODE § 26.121(a)(3) and 30 TEX. ADMIN. CODE § 335.4].
2. Failed to pay outstanding General Permit Stormwater fees [TEX. WATER CODE §§ 5.702 and 26.0291 and 30 TEX. ADMIN. CODE § 21.4(e)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Immediately cease to cause, suffer, allow, or permit the collection, storage, handling, and/or disposal of any additional waste at the Site.
2. Within 15 days, submit payment for all outstanding fees, including late fees and interest.
3. Within 180 days, submit to the Executive Director for approval an Affected Property Assessment Report ("APAR") for the Site.
4. If response actions are necessary, Respondents shall comply with all applicable requirements of the Texas Risk Reduction Program.
5. Within 195 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1 through 3.

Litigation Information

Date Petition(s) Filed: May 26, 2011

Date Answer(s) Filed: N/A

Settlement Date: February 9, 2012

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 41338
AVONDALE RANCH, LTD., NRH Woodland Estates, L.P.,
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RN102841301
Docket No. 2011-0430-IHW-E

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Contact Information

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

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Keith Frank, Enforcement Division, (512) 239- 1203

TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5903

Respondent: Scott T. Schambacher, Director, AVONDALE RANCH, LTD., NRH Woodland Estates, L.P., and BUCK DEVELOPMENT SERVICES, L.L.C., 5849 Park Vista Circle, Keller, Texas 76248

Respondent's Attorney: Stephen Dickman, Kelly, Hart & Hallman, L.L.P., 301 Congress Avenue, Ste. 2000, Austin, Texas 78701-2960

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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	18-Mar-2011	EPA Due	
	PCW	21-Mar-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	AVONDALE RANCH, LTD., NRH Woodland Estates, L.P., and BUCK DEVELOPMENT SERVICES, L.L.C.				
Reg. Ent. Ref. No.	RN102841301				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	41338	No. of Violations	2
Docket No.	2011-0430-IHW-E	Order Type	Findings
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment due to compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondents do 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	\$2,472	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$64,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$5,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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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	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$5,000
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Screening Date 18-Mar-2011

Docket No. 2011-0430-IHW-E

PCW

AVONDALE RANCH, LTD., NRH Woodland Estates, L.P., and BUCK DEVELOPMENT SERVICES, L.L.C.

Respondent Case ID No. 41338

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102841301

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 0%

>> **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

No adjustment due to compliance history.

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

Screening Date 18-Mar-2011

Docket No. 2011-0430-IHW-E

PCW

Respondent Case ID No. AVONDALE RANCH, LTD., NRH Woodland Estates, L.P., and BUCK DEVELOPMENT SERVICES, L.L.C. 41338
Reg. Ent. Reference No. RN102841301
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Keith Frank

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

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.4 and Tex. Water Code § 26.121(a)(3)

Violation Description Failed to prevent the collection, storage, handling and disposal of industrial solid waste in a manner which threatened the discharge of industrial solid waste into or adjacent to waters in the state. Specifically, the investigator documented petroleum hydrocarbon resembling used oil on the sidewalk, driveway cracks and around two drains at the Site. Five soil samples collected at the Site contained elevated levels of total petroleum hydrocarbon ranging from 79.7 milligrams per kilogram ("mg/kg") to 3277 mg/kg.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	x				50%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

One monthly event is recommended based on documentation of the violation during the February 16, 2011 record review to the March 18, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,472 Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent AVONDALE RANCH, LTD., NRH Woodland Estates, L.P., and BUCK DEVELOPMENT SERVICES, L.L.C.
Case ID No. 41338
Req. Ent. Reference No. RN102841301
Media Violation No. Industrial and Hazardous Waste
 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	\$64,000	16-Feb-2011	25-Nov-2011	0.77	\$2,472	n/a	\$2,472
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct an Affected Property Assessment and submit a report. Date Required is the record review date. Final Date is the estimated 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

\$64,000

TOTAL

\$2,472

Screening Date 18-Mar-2011

Docket No. 2011-0430-IHW-E

PCW

Respondent AVONDALE RANCH, LTD., NRH Woodland Estates, L.P., and BUCK DEVELOPMENT SERVICES, L.L.C.
Case ID No. 41338
Reg. Ent. Reference No. RN102841301
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Keith Frank

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

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 21.4(e) and Tex. Water Code §§ 5.702 and 26.0291

Violation Description

Failed to pay outstanding fees for TCEQ Financial Account No. 20008613, as documented during a record review conducted on March 21, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes

No penalty is calculated for this violation.

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events [] Number of violation days []

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$0

No additional administrative penalty was calculated for this violation as penalties and interest will be assessed on the next fee billing.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

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

Economic Benefit Worksheet

Respondent AVONDALE RANCH, LTD., NRH Woodland Estates, L.P., and BUCK DEVELOPMENT SERVICES, L.L.C.
Case ID No. 41338
Req. Ent. Reference No. RN102841301
Media Violation No. Industrial and Hazardous Waste
 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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

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: CN602547606 AVONDALE RANCH, LTD. Classification: AVERAGE Rating: 3.01
 Regulated Entity: RN102841301 Realty Alliance Classification: AVERAGE Site Rating: 3.01
 ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988086096
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 52202

Location: 6601 CRANE RD, NORTH RICHLAND HILLS, TX, 76182

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: March 17, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 17, 2006 to March 17, 2011

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

Name: Keith Frank Phone: (512) 239-1203

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: No

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator: CN604073890 NRH Woodland Estates, L.P. Classification: AVERAGE Rating: 3.01
 Regulated Entity: RN102841301 Realty Alliance Classification: AVERAGE Site Rating: 3.01
 ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988086096
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 52202
 INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED ID NUMBER R04102841301
 Location: 6601 CRANE RD, NORTH RICHLAND HILLS, TX, 76182
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: April 30, 2012
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: March 17, 2006 to March 17, 2011
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Wallace Myers Phone: 512-239-6580

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.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator: CN604073932 BUCK DEVELOPMENT SERVICES, L.L.C. Classification: AVERAGE Rating: 3.01
 Regulated Entity: RN102841301 Realty Alliance Classification: AVERAGE Site Rating: 3.01
 ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988086096
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 52202
 INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED ID NUMBER R04102841301

Location: 6601 CRANE RD, NORTH RICHLAND HILLS, TX, 76182

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: April 30, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 17, 2006 to March 17, 2011

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

Name: Wallace Myers Phone: 512-239-6580

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.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
AVONDALE RANCH, LTD.,	§	TEXAS COMMISSION ON
NRH WOODLAND ESTATES, L.P.,	§	
AND	§	
BUCK DEVELOPMENT SERVICES, L.L.C.;	§	ENVIRONMENTAL QUALITY
RN102841301	§	

AGREED ORDER

DOCKET NO. 2011-0430-IHW-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding AVONDALE RANCH, LTD. ("Avondale Ranch"), NRH Woodland Estates, L.P. ("NRH"), and BUCK DEVELOPMENT SERVICES, L.L.C. ("Buck Development") (collectively referred to as "Respondents") under the authority of TEX. WATER CODE chs. 5, 7, and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents, represented by Stephen Dickman of the law firm Kelly Hart and Hallman LLP, presented this Agreed Order to the Commission.

Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondents.

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

FINDINGS OF FACT

1. NRH and Buck Development owned and Avondale Ranch operated a residential housing development, formerly the Sonricker Oil facility, located at 6601 Crane Road in North Richland Hills, Tarrant County, Texas (the "Subdivision"). The Subdivision is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5). The Subdivision involves the management and/or the disposal of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

2. During an investigation conducted on October 5, 2010, and a record review conducted on February 16, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondents failed to prevent the collection, storage, handling and disposal of industrial solid waste in a manner which threatened the discharge of industrial solid waste into or adjacent to water in the state. Specifically, petroleum hydrocarbon resembling used oil was observed in the Subdivision on a sidewalk, in driveway cracks and around two drains at 9012 Cedar Bluffs Drive (the "Site"), and five soil samples collected at the Site contained elevated levels of total petroleum hydrocarbon ranging from 79.7 milligrams per kilogram ("mg/kg") to 3277 mg/kg.
3. During a record review conducted on March 21, 2011, a TCEQ Enforcement Coordinator documented that Respondents failed to pay General Permit Stormwater ("GPS") fees for TCEQ financial Account No. 20008613.
4. Respondents received notice of the violation alleged in Finding of Fact No. 2 on or about February 28, 2011. Respondents received notice of the violation alleged in Finding of Fact No. 3 on or about April 20, 2011.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.

As evidenced by Finding of Fact No. 2, Respondents failed to prevent the collection, storage, handling and disposal of industrial solid waste in a manner which threatened the discharge of industrial solid waste into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(3) and 30 TEX. ADMIN. CODE § 335.4.
2. As evidenced by Finding of Fact No. 3, Respondents failed to pay outstanding GPS fees for TCEQ financial Account No. 20008613, in violation of TEX. WATER CODE §§ 5.702 and 26.0291 and 30 TEX. ADMIN. CODE § 21.4(e).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents 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.
4. An administrative penalty in the amount of five thousand dollars (\$5,000.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondents paid one hundred seventy dollars (\$170.00) of the administrative penalty. The remaining amount of four thousand eight hundred thirty dollars (\$4,830.00) of the administrative penalty shall be payable in thirty-five monthly payments of one hundred thirty-eight dollars (\$138.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondents' failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondents to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondents are assessed an administrative penalty as set forth in Conclusion of Law No. 4, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: AVONDALE RANCH, LTD., NRH Woodland Estates, L.P., and BUCK DEVELOPMENT SERVICES L.L.C., Docket No. 2011-0430-IHW-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

2. Respondents shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order, Respondents shall cease to cause, suffer, allow, or permit the collection, storage, handling, and/or disposal of any additional waste at the Subdivision.
- b. Within 15 days after the effective date of this Agreed Order, Respondents shall submit payment for all outstanding fees, including late fees and interest, with the notation "AVONDALE RANCH, LTD., GPS Account No. 20008613" 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

- c. Within 180 days after the effective date of this Order, Respondents shall submit to the Executive Director for approval an Affected Property Assessment Report ("APAR") for the Site, pursuant to 30 TEX. ADMIN. CODE § 350.91. The APAR shall be submitted to:

Environmental Cleanup Section
Remediation Division, MC 221
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- d. If response actions are necessary, Respondents shall comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350, which may include plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§350.921 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F.

- e. Within 195 days after the effective date of this Agreed Order, Respondents shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. through 2.c. The certification 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."

Respondents shall submit the written certification 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

with copies to:

Sid Slocum, Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondents. If Respondents fail 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, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Respondents have not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondents, or three days after the date on which the Commission mails notice of this Agreed Order to Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

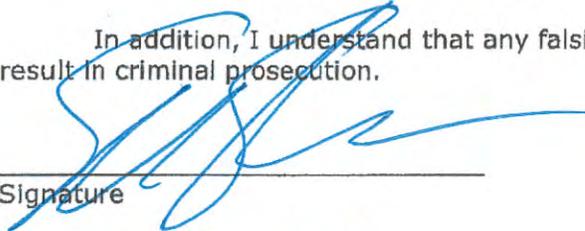
May 10, 2012
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of AVONDALE RANCH, LTD., NRH Woodland Estates, LP, and BUCK DEVELOPMENT SERVICES, LLC 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature

2-9-12
Date

Scott Schambacher
Name (Printed or typed)

Authorized representative of
AVONDALE RANCH, LTD., NRH Woodland Estates, LP and BUCK DEVELOPMENT SERVICES,
LLC