

**J & J Soil Service, Inc.**  
**RN106451776**  
**Docket No. 2012-1423-MLM-E**

**Order Type:**

Agreed Order

**Media:**

MLM - Used Oil, PST, WQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

409 Farm-to-Market Road 2423, Grapeland, Houston County

**Type of Operation:**

aglime, dry and liquid fertilizer, and pasture spraying facility with above-ground storage tanks ("ASTs")

**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:** April 26, 2013**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$12,250**Total Paid to General Revenue:** \$350**Total Due to General Revenue:** \$11,900

Payment Plan: 35 payments of \$340 each

**SEP Conditional Offset:** N/A**Compliance History Classifications:**Person/CN – Unclassified  
Site/RN – Unclassified**Major Source:** No**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** September 2011**Investigation Information****Complaint Date(s):** N/A**Date(s) of Investigation:** June 12, 2012**Date(s) of NOV(s):** N/A**Date(s) of NOE(s):** July 13, 2012

**J & J Soil Service, Inc.**  
**RN106451776**  
**Docket No. 2012-1423-MLM-E**

**Violation Information**

1. Failed to prevent an unauthorized discharge of used oil [30 TEX. ADMIN. CODE § 324.4(2)(B)].
2. Failed to label or clearly mark containers used to store used oil [30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c)(1)].
3. Failed to prevent the discharge of industrial waste into or adjacent to water in the state (washwater from fertilizer trucks) [TEX. WATER CODE § 26.121(a)].
4. Failed to obtain authorization to discharge storm water associated with industrial activities under Texas Pollutant Discharge Elimination System (“TPDES”) Multi-Sector General Permit (“MSGP”) No. TXR050000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c)].
5. Failed to register ASTs (one 5,000 gallon tank, one 10,000 gallon tank) [30 TEX. ADMIN. CODE § 334.127(a)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. Submitted photographs on or about September 19, 2012, demonstrating that the 300 gallon used oil tank was properly labeled with the words “Used Oil” (violation no. 2).
2. Was issued Authorization No. TXR05BO26 on October 26, 2012, which authorizes the discharge of stormwater associated with industrial activity pursuant to the terms and conditions of TPDES MSGP No. TXR050000 (violation no. 4).
3. Registered the 5,000 gallon AST as “out of use” on July 9, 2012 (violation no. 5).
4. Registered the 10,000 gallon AST as “in use” on October 22, 2012 (violation no. 5).

**Technical Requirements:**

1. Within 15 days:
  - a. Develop and implement procedures to ensure used oil is properly managed to prevent discharges of used oil onto the ground from the oil tank, the used oil filter containers, and the hydraulic oil containers (violation no. 1); and
  - b. Develop and implement procedures to prevent fertilizer wastewater from being discharged onto the ground (violation no. 3).
2. Within 30 days, properly remove the contaminated soil from all of the affected areas at the Facility and dispose of it at an authorized facility; and
3. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** November 20, 2012  
**Date Answer(s) Filed:** February 7, 2013  
**SOAH Referral Date:** March 13, 2013  
**Hearing Date(s):**  
Preliminary hearing: May 2, 2013 (scheduled)  
**Settlement Date:** March 25, 2012

**J & J Soil Service, Inc.**  
**RN106451776**  
**Docket No. 2012-1423-MLM-E**

**Contact Information**

**TCEQ Attorneys:** Kari L. Gilbreth, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Amy Swanholm, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Jorge Ibarra, Enforcement Division, (817) 588-5800

**TCEQ Regional Contact:** Ronald Hebert & Sarah Kirksey, Beaumont Regional Office, (409) 898-3838

**Respondent:** Jason Horton, President, J & J Soil Services, Inc., Rt. 3, Box 3004, Grapeland, Texas 75844;  
Jason Horton, President, J & J Soil Services, Inc., 409 FM 2423, Grapeland, Texas 75844

**Respondent's Attorney:** J. Stuart Lohmeyer, WALLACE, JACKSON & LOHMEYER, P.C.,  
820 Main Street, Suite 100, Kerrville, Texas 78028

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# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	16-Jul-2012	<b>Screening</b>	18-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	9-Oct-2012				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	J & J Soil Service, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN106451776		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	44563	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-1423-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Used Oil	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$5,000

**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.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<input type="text" value="\$0"/>
Notes	No adjustment for compliance history.		
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>	<input type="text" value="\$0"/>
Notes	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	<input type="text" value="\$0"/>
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<input type="text" value="\$0"/>
Total EB Amounts	<input type="text" value="\$99"/>	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	<input type="text" value="\$3,075"/>		

**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		<b>Final Penalty Amount</b>	<input type="text" value="\$1,000"/>
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**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	No deferral offered for non expedited settlement.		
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**PAYABLE PENALTY**

<b>Screening Date</b>	18-Jul-2012	<b>Docket No.</b>	2012-1423-MLM-E	<b>PCW</b>
<b>Respondent</b>	J & J Soil Service, Inc.			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44563			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106451776			
<b>Media [Statute]</b>	Used Oil			
<b>Enf. Coordinator</b>	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> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)**

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)**

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%**

<b>Screening Date</b>	18-Jul-2012	<b>Docket No.</b>	2012-1423-MLM-E	<b>PCW</b>
<b>Respondent</b>	J & J Soil Service, Inc.	<i>Policy Revision 3 (September 2011)</i>		
<b>Case ID No.</b>	44563	<i>PCW Revision August 3, 2011</i>		
<b>Reg. Ent. Reference No.</b>	RN106451776			
<b>Media [Statute]</b>	Used Oil			
<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="5.0%"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0.0%"/>

**Matrix Notes**

**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" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

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

**Notes**

**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** J & J Soil Service, Inc.  
**Case ID No.** 44563  
**Reg. Ent. Reference No.** RN106451776  
**Media** Used Oil  
**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	\$2,000	12-Jun-2012	1-Feb-2013	0.64	\$64	n/a	\$64
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	12-Jun-2012	1-Feb-2013	0.64	\$32	n/a	\$32

Notes for DELAYED costs

Estimated cost to properly remove and dispose of contaminated soil and to develop and implement procedures to properly handle used oil. 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

\$3,000

**TOTAL**

\$96

<b>Screening Date</b>	18-Jul-2012	<b>Docket No.</b>	2012-1423-MLM-E	<b>PCW</b>
<b>Respondent</b>	J & J Soil Service, Inc.	<i>Policy Revision 3 (September 2011)</i>		
<b>Case ID No.</b>	44563	<i>PCW Revision August 3, 2011</i>		
<b>Reg. Ent. Reference No.</b>	RN106451776			
<b>Media [Statute]</b>	Used Oil			
<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.			

**Violation Number**

**Rule Cite(s)**  
40 Code of Federal Regulations § 279.22(c)(1) and 30 Tex. Admin. Code § 324.6

**Violation Description**  
Failed to label or clearly mark containers used to store used oil. Specifically, the 300 gallon used oil tank was not properly labeled with the words "Used Oil".

**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" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

100% of the rule requirement was not met.

**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="text" value="x"/>

**Violation Base Penalty**

One single event is recommended.

**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** J & J Soil Service, Inc.  
**Case ID No.** 44563  
**Reg. Ent. Reference No.** RN106451776  
**Media** Used Oil  
**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)	\$75	12-Jun-2012	15-Feb-2013	0.68	\$3	n/a	\$3

Notes for DELAYED costs: Estimated cost properly label or clearly mark containers used to store used oil. 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 \$75

**TOTAL** \$3



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	16-Jul-2012	<b>Screening</b>	18-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	9-Oct-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	J & J Soil Service, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN106451776		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	44563	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-1423-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## 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

**Culpability**   Enhancement **Subtotal 4**

Notes

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

**Economic Benefit**  Enhancement\* **Subtotal 6**

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

**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

**PAYABLE PENALTY**

<b>Screening Date</b>	18-Jul-2012	<b>Docket No.</b>	2012-1423-MLM-E	<b>PCW</b>
<b>Respondent</b>	J & J Soil Service, Inc.			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44563			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106451776			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	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> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)**

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)**

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%**

<b>Screening Date</b>	18-Jul-2012	<b>Docket No.</b>	2012-1423-MLM-E	<b>PCW</b>
<b>Respondent</b>	J & J Soil Service, Inc.			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44563			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106451776			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>			<b>Percent</b> <input type="text" value="15.0%"/>	
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text" value="x"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	<b>Percent</b> <input type="text" value="0.0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes**

**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" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

**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 type="text" value="x"/>	(mark with x)

**Notes**

**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** J & J Soil Service, Inc.  
**Case ID No.** 44563  
**Reg. Ent. Reference No.** RN106451776  
**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	\$2,000	12-Jun-2012	1-Feb-2013	0.64	\$64	n/a	\$64
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly remove and dispose of contaminated soil. 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

\$2,000

**TOTAL**

\$64

<b>Screening Date</b>	18-Jul-2012	<b>Docket No.</b>	2012-1423-MLM-E	<b>PCW</b>
<b>Respondent</b>	J & J Soil Service, Inc.	<i>Policy Revision 3 (September 2011)</i>		
<b>Case ID No.</b>	44563	<i>PCW Revision August 3, 2011</i>		
<b>Reg. Ent. Reference No.</b>	RN106451776			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.			

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

**Violation Description**

Failed to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit No. TXR050000.

**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**

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

Matrix Notes

100% of the rule requirement was not met.

**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 checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Two monthly events are recommended from the June 12, 2012 investigation date to the July 18, 2012 screening date.

**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** J & J Soil Service, Inc.  
**Case ID No.** 44563  
**Reg. Ent. Reference No.** RN106451776  
**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	\$1,500	12-Jun-2012	1-Mar-2013	0.72	\$54	n/a	\$54
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a Storm Water Pollution Prevention Plan and obtain authorization to discharge storm water associated with industrial activities. 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

\$1,500

**TOTAL**

\$54

<b>Screening Date</b>	18-Jul-2012	<b>Docket No.</b>	2012-1423-MLM-E	<b>PCW</b>
<b>Respondent</b>	J & J Soil Service, Inc.			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44563			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106451776			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.			

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 334.127(a)

**Violation Description**

Failed to register above ground storage tanks ("ASTs"). Specifically, one 5,000 gallon and one 10,000 gallon diesel ASTs were not registered.

**Base Penalty**

>> Environmental, Property and Human Health Matrix

OR

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

**Percent**

>> Programmatic Matrix

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

**Percent**

Matrix Notes

100% of the rule requirement was not met.

**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="text" value="x"/>

**Violation Base Penalty**

One single event is recommended.

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** J & J Soil Service, Inc.  
**Case ID No.** 44563  
**Reg. Ent. Reference No.** RN106451776  
**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	\$200	12-Jun-2012	1-Mar-2013	0.72	\$7	n/a	\$7
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the ASTs. 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 \$200

**TOTAL** \$7

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603982745, RN106267891, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN604104737, J & J SOIL SERVICE, INC. **Classification:** UNCLASSIFIED **Rating:** -----

**Regulated Entity:** RN106451776, J & J SOIL SERVICE **Classification:** UNCLASSIFIED **Rating:** -----

**Complexity Points:** 0 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 409 FM 2423 GRAPELAND, TX 75844-2470, HOUSTON COUNTY

**TCEQ Region:** REGION 10 - BEAUMONT

## ID Number(s):

**MUNICIPAL SOLID WASTE NON PERMITTED**

ID NUMBER 455100076

**STORMWATER**

PERMIT TXR05BO26

**PETROLEUM STORAGE TANK REGISTRATION**

REGISTRATION 85255

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** January 23, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 17, 2007 to July 17, 2012

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Jorge Ibarra, P.E.

**Phone:** (817) 588-5890

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**

N/A

**B. Criminal convictions:**

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.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
J & J SOIL SERVICE, INC.;  
RN106451776**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2012-1423-MLM-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding J & J Soil Service, Inc. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 371. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by J. Stuart Lohmeyer of the law firm WALLACE, JACKSON & LOHMEYER, P.C., together stipulate that:

1. Respondent owns and operates an aglime, dry and liquid fertilizer, and pasture spraying facility with above-ground storage tanks ("ASTs") located at 409 Farm-to-Market Road 2423 in Grapeland, Houston County, Texas (the "Facility"). The ASTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5). The Facility involves the management and disposal of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 371 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of twelve thousand two hundred fifty dollars (\$12,250.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred fifty dollars (\$350.00) of the administrative penalty. The remaining amount of eleven thousand nine hundred dollars (\$11,900.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred forty dollars (\$340.00) 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 Respondent fails 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. 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 Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. 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.
10. 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.
11. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
  - a. Submitted photographs on or about September 19, 2012, demonstrating that the 300 gallon used oil tank was properly labeled with the words "Used Oil";
  - b. Was issued Authorization No. TXR05BO26 on October 26, 2012, which authorizes the discharge of stormwater associated with industrial activity pursuant to the terms and conditions of Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000;
  - c. Registered the 5,000 gallon AST as "out of use" on July 9, 2012; and
  - d. Registered the 10,000 gallon AST as "in use" on October 22, 2012.

## **II. ALLEGATIONS**

1. During an investigation conducted on June 12, 2012, a TCEQ Beaumont Regional Office investigator documented that Respondent:
  - a. Failed to prevent an unauthorized discharge of used oil, in violation of 30 TEX. ADMIN. CODE § 324.4(2)(B). Specifically, used oil was observed discharging onto the ground around the 300 gallon used oil tank, from the used oil filter containers, and from draining and rinsing of hydraulic oil containers;
  - b. Failed to label or clearly mark containers used to store used oil, in violation of 30 TEX. ADMIN. CODE § 324.6 and 40 C.F.R. § 279.22(c)(1). Specifically, the 300 gallon used oil tank was not properly labeled with the words "Used Oil";

- c. Failed to prevent the discharge of industrial waste into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a). Specifically, wastewater from the washing of fertilizer trucks, and wastewater resulting from the washing of liquid cattle feed and fertilizer storage tanks, was discharged onto the ground, impacting two areas of approximately 50' by 50' (for a total area of approximately 100' by 100'), resulting in dead and/or stressed vegetation;
  - d. Failed to obtain authorization to discharge storm water associated with industrial activities under TPDES MSGP No. TXR050000, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 C.F.R. § 122.26(c); and
  - e. Failed to register ASTs, in violation of 30 TEX. ADMIN. CODE § 334.127(a). Specifically, one 5,000 gallon diesel AST and one 10,000 gallon diesel AST were not registered.
2. Respondent received notice of the violations on or about July 18, 2012.

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 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: J & J Soil Service, Inc., Docket No. 2012-1423-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
2. Respondent shall undertake the following technical requirements:
  - a. Within 15 days after the effective date of this Agreed Order, Respondent shall:
    - i. Develop and implement procedures to ensure used oil is properly managed to prevent discharges of used oil onto the ground from the oil tank, the used oil filter containers, and the hydraulic oil containers; and
    - ii. Develop and implement procedures to prevent fertilizer wastewater from being discharged onto the ground.
  - b. Within 30 days after the effective date of this Agreed Order, Respondent shall properly remove the contaminated soil from all of the affected areas at the Facility and dispose of it at an authorized facility; and
  - c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision

Nos. 2.a. and 2.b. 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."

Respondent 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

and:

Ronald Hebert, Water Section Manager  
Sarah Kirksey, Waste Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
Beaumont Regional Office  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

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 Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed 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.
6. 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 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.

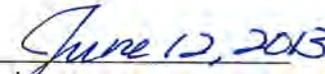
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
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 Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

  
\_\_\_\_\_  
Date

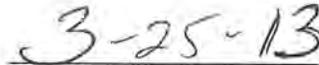
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of J & J Soil Service, Inc., and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment 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 - Jason Horton, President  
J & J Soil Service, Inc.

  
\_\_\_\_\_  
Date