

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44595  
All American Septic LLC  
RN106303985  
Docket No. 2012-1461-SLG-E

**Order Type:**

Default Order (SOAH preliminary hearing)

**Media:**

WQ

**Small Business:**

Yes

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

8514 Pines Place Drive, Humble, Harris County

**Type of Operation:**

registered sludge transporter

**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:** July 5, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$8,666

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$8,666

**Compliance History Classifications:**

Person/CN –N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** June 8, 2012

**Date(s) of NOV(s):** November 15, 2011

**Date(s) of NOE(s):** July 11, 2012

**All American Septic LLC**  
**RN106303985**  
**Docket No. 2012-1461-SLG-E**

**Violation Information**

1. Failed to prevent the discharge of septage into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)].
2. Failed to obtain a registration from the TCEQ before application of domestic septage at an unauthorized facility[30 TEX. ADMIN. CODE § 312.4(d)].
3. Failed to submit to the Executive Director of the TCEQ a letter describing a significant discrepancy with the operator of the disposal facility, any attempts to reconcile the discrepancy, and a copy of the trip ticket [30 TEX. ADMIN CODE § 312.145(c)(2)].
4. Failed to return a copy of the trip ticket to the generator within 15 days after the waste was received at the disposal facility [30 TEX. ADMIN. CODE § 312.145(b)(1)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 30 days:
  - a. Properly treat and/or remediate all contaminated areas at the Business that resulted from the discharge of septage;
  - b. Cease all application of septage at the Business until proper registration from the TCEQ is obtained;
  - c. Develop and begin implementing measures to ensure that if discrepancies are not resolved within 15 days after delivering the waste, that a letter is submitted to the TCEQ describing any significant discrepancy with the operator of the disposal facility, any attempts to reconcile the discrepancy, and a copy of the respective trip ticket; and
  - d. Begin returning a copy of the trip ticket to the generator within 15 days after the waste is received at the disposal facility.
2. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** November 19, 2012  
**Date Green Card(s) Signed:** November 21, 2012  
**Date Answer(s) Filed:** December 12, 2012  
**SOAH Referral Date:** February 22, 2013  
**Hearing Date(s):**  
Preliminary hearing: March 28, 2013 (defaulted)

**Contact Information**

**TCEQ Attorneys:** Rudy Calderon, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Garrett Arthur, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Jorge Ibarra, P.E., Enforcement Division, (713) 767-3500

**TCEQ Regional Contact:** Steve Smith, Houston Regional Office, (713) 767-3500

**Respondent:** Billy J. Starks, Director, All American Septic LLC, 8514 Pines Place Drive, Humble, Texas 77346

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	23-Jul-2012	<b>Screening</b>	24-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	21-Sep-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	All American Septic LLC				
<b>Reg. Ent. Ref. No.</b>	RN106303985				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	44595	<b>No. of Violations</b>	4
<b>Docket No.</b>	2012-1461-SLG-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<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

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$6,250
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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.

<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$312
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<b>Notes</b>	Enhancement for one NOV with same/similar violation.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$2,211	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,250	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,562
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	32.1%	<b>Adjustment</b>	\$2,104
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommended enhancement to capture the avoided cost associated with Violation No. 1.
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<b>Final Penalty Amount</b>	\$8,666
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$8,666
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<b>DEFERRAL</b>		Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	No deferral offered for non expedited settlement.
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<b>PAYABLE PENALTY</b>	\$8,666
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**Screening Date** 24-Jul-2012

**Docket No.** 2012-1461-SLG-E

**PCW**

**Respondent** All American Septic LLC

*Policy Revision 3 (September 2011)*

**Case ID No.** 44595

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN106303985

**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> )	1	5%
	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)** 5%

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

N/A

**Adjustment Percentage (Subtotal 3)** 0%

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with same/similar violation.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 5%

**Screening Date** 24-Jul-2012  
**Respondent** All American Septic LLC  
**Case ID No.** 44595  
**Reg. Ent. Reference No.** RN106303985  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jorge Ibarra, P.E.

**Docket No.** 2012-1461-SLG-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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" value="x"/>	<input type="text" value="5.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<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"/>
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** All American Septic LLC  
**Case ID No.** 44595  
**Reg. Ent. Reference No.** RN106303985  
**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	8-Jun-2012	1-Feb-2013	0.65	\$65	n/a	\$65
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 treat and/or remediate all contaminated areas. 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)	\$2,000	8-Jun-2012	24-Jul-2012	1.04	\$104	\$2,000	\$2,104

Notes for AVOIDED costs

Estimated cost to properly dispose septage at an authorized disposal Facility. Date required is the investigation date and the final date is the screening date.

Approx. Cost of Compliance

\$4,000

**TOTAL**

\$2,170

**Screening Date** 24-Jul-2012  
**Respondent** All American Septic LLC  
**Case ID No.** 44595  
**Reg. Ent. Reference No.** RN106303985  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jorge Ibarra, P.E.

**Docket No.** 2012-1461-SLG-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 312.4(d)

**Violation Description**

Failed to obtain a registration from the TCEQ before application of domestic septage at an unauthorized site. Specifically, the Respondent applied domestic septage at the Site without proper authorization.

**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 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 8, 2012 investigation date to the July 24, 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** All American Septic LLC  
**Case ID No.** 44595  
**Reg. Ent. Reference No.** RN106303985  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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	\$1,000	8-Jun-2012	1-Feb-2013	0.65	\$33	n/a	\$33
Other (as needed)			0.00	\$0	n/a	\$0	

**Notes for DELAYED costs**   Estimated cost to obtain the required registration from the TCEQ before application of domestic septage at a facility. 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   \$1,000

**TOTAL**   \$33

**Screening Date** 24-Jul-2012  
**Respondent** All American Septic LLC  
**Case ID No.** 44595  
**Reg. Ent. Reference No.** RN106303985  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jorge Ibarra, P.E.

**Docket No.** 2012-1461-SLG-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number** 3

**Rule Cite(s)**

30 Tex. Admin. Code § 312.145(c)(2)

**Violation Description**

Failed to submit to the Executive Director of the TCEQ a letter describing a significant discrepancy with the operator of the disposal facility, any attempts to reconcile the discrepancy, and a copy of the trip ticket. Specifically, discrepancies were noted between the amount of waste listed on waste manifests and the amount shown in the waste tally sheet obtained from one of the disposal facilities. The Respondent did not submit to the TCEQ Executive Director a letter describing the discrepancy.

**Base Penalty** \$25,000

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

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

**Percent** 5.0%

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 1

46 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$1,250

One single event is 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** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$7

**Violation Final Penalty Total** \$1,733

**This violation Final Assessed Penalty (adjusted for limits)** \$1,733

## Economic Benefit Worksheet

**Respondent** All American Septic LLC  
**Case ID No.** 44595  
**Reg. Ent. Reference No.** RN106303985  
**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	8-Jun-2012	15-Feb-2013	0.69	\$7	n/a	\$7
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to submit to the Executive Director of the TCEQ the required letter describing a significant discrepancy with the operator of the disposal facility, the attempts to reconcile it, and a copy of the trip ticket. 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	<b>TOTAL</b>	\$7
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**Screening Date** 24-Jul-2012  
**Respondent** All American Septic LLC  
**Case ID No.** 44595  
**Reg. Ent. Reference No.** RN106303985  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jorge Ibarra, P.E.

**Docket No.** 2012-1461-SLG-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 312.145(b)(1)

**Violation Description**

Failed to return a copy of the trip ticket to the generator within 15 days after the waste was received at the disposal facility.

**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** All American Septic LLC  
**Case ID No.** 44595  
**Reg. Ent. Reference No.** RN106303985  
**Media** Water Quality  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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	8-Jun-2012	1-Mar-2013	0.73	\$2	n/a	\$2

**Notes for DELAYED costs**   Estimated cost to return a copy of the trip ticket to the generator within 15 days after the waste is received at the disposal facility. 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 Report

Customer/Respondent/Owner-Operator: CN604010611 All American Septic LLC Classification: Rating:  
Regulated Entity: RN106303985 ALL AMERICAN SEPTIC LLC Classification: Site Rating:  
ID Number(s): SLUDGE REGISTRATION 24472  
Location: 8514 PINES PLACE DR, HUMBLE, TX, 77346  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: 7/24/2012  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 24, 2007 to July 24, 2012  
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? NO
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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

## 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.)
    - 1 2/15/2008 (618326)
    - 2 9/11/2009 (763892)
    - 3 9/8/2010 (829748)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

**Date: 11/15/2011 (968533) CN603234295**

Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
Description: Unauthorized discharge by a sludge transporter.
  - 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  
ALL AMERICAN SEPTIC LLC;  
RN106303985**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2012-1461-SLG-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is All American Septic LLC ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a registered sludge transporter business located at 8514 Pines Place Drive in Humble, Harris County, Texas (the "Business"). The Business involves the management and/or disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361. Respondent holds sludge transporter registration No. 24472, issued by the TCEQ on May 26, 2005, which authorizes Respondent to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, and grease trap waste. Therefore, Respondent is subject to TCEQ jurisdiction pursuant to 30 TEX. ADMIN. CODE ch. 312, Subchapter G. The Business is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted on June 8, 2012, a TCEQ Houston Regional Office investigator documented that Respondent:
  - a. Failed to prevent the discharge of septage into or adjacent to water in the state. Specifically, septage was being applied, limed and discarded into the soil. Also, septage was observed pooling in several areas in wheel ruts at the Business;
  - b. Failed to obtain a registration from the TCEQ before application of domestic septage at an unauthorized facility. Specifically, Respondent applied domestic septage at the Business without proper authorization;
  - c. Failed to submit to the Executive Director of the TCEQ a letter describing a significant discrepancy with the operator of the disposal facility, any attempts to reconcile the discrepancy, and a copy of the trip ticket. Specifically, discrepancies were noted between the amount of waste listed on waste manifests and the amount shown in the waste tally sheet obtained from one of the disposal facilities. Respondent did not submit to the TCEQ Executive Director a letter describing such discrepancy; and

- d. Failed to return a copy of the trip ticket to the generator within 15 days after the waste was received at the disposal facility.
3. Respondent received notice of the violations on or about July 16, 2012.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of All American Septic LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on November 19, 2012.
5. Respondent filed an answer requesting a hearing on December 12, 2012, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on February 22, 2013.
6. On February 28, 2013, the TCEQ Chief Clerk mailed notice of the March 28, 2013, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
7. On March 28, 2013, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
8. On March 28, 2013, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 1, Granting Motion to Remand, so that TCEQ may dispose of this case on a default basis.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to prevent the discharge of septage into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to obtain a registration from the TCEQ before application of domestic septage at an unauthorized facility, in violation of 30 TEX. ADMIN. CODE § 312.4(d).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to submit to the Executive Director of the TCEQ a letter describing a significant discrepancy with the operator of the disposal facility, any attempts to reconcile the discrepancy, and a copy of the trip ticket, in violation of 30 TEX. ADMIN CODE § 312.145(c)(2).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to return a copy of the trip ticket to the generator within 15 days after the waste was received at the disposal facility, in violation of 30 TEX. ADMIN. CODE § 312.145(b)(1).
6. As evidenced by Finding of Fact No. 5, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.

7. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
8. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. WATER CODE § 7.057, and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of eight thousand six hundred sixty-six dollars (\$8,666.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of eight thousand six hundred sixty-six dollars (\$8,666.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: All American Septic LLC; Docket No. 2012-1461-SLG-E" to:

Financial Administration Division, Revenues Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Respondent shall:
    - i. Properly treat and/or remediate all contaminated areas at the Business that resulted from the discharge of septage (Conclusion of Law No. 2);

- ii. Cease all application of septage at the Business until proper registration from the TCEQ is obtained (Conclusion of Law No. 3);
  - iii. Develop and begin implementing measures to ensure that if discrepancies are not resolved within 15 days after delivering the waste, that a letter is submitted to the TCEQ describing any significant discrepancy with the operator of the disposal facility, any attempts to reconcile the discrepancy, and a copy of the respective trip ticket, in accordance with 30 TEX. ADMIN. CODE § 312.145 (CONCLUSION OF LAW No. 4); and
  - iv. Begin returning a copy of the trip ticket to the generator within 15 days after the waste is received at the disposal facility, in accordance with 30 TEX. ADMIN. CODE § 312.145 (Conclusion of Law No. 5).
- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iv. The certification required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written 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:

Steve Smith, Water Section Manager  
Texas Commission on Environmental Quality  
Houston Regional Office  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

- 4. All relief not expressly granted in this Order is denied.
- 5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Business operations referenced in this Order.
- 6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war,

strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF RUDY CALDERON**

**STATE OF TEXAS**                   §  
  §  
**COUNTY OF TRAVIS**               §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of All American Septic LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on November 19, 2012.

The EDPRP was mailed to Respondent's last known address on November 19, 2012, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on November 21, 2012, as evidenced by the signature on the card.

Respondent filed an answer requesting a hearing on December 12, 2012, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on February 22, 2013. On February 28, 2013, the TCEQ Chief Clerk mailed notice of the March 28, 2013, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on March 28, 2013. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No 1, Granting Motion to Remand, issued on March 28, 2013, so that TCEQ may dispose of this case on a default basis."

\_\_\_\_\_  
Rudy Calderon, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 20th day of August, A.D. 2013.



Notary without Bond

\_\_\_\_\_  
Notary Signature