

**Attebury Grain, LLC**  
**RN102420569**  
**Docket No. 2012-1326-AIR-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Indifference to legal duty based on violation of a previous order.

**Media:**

AIR

**Small Business:**

No

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

624 Burlington Rd., Saginaw, Tarrant County

**Type of Operation:**

grain elevator

**Other Significant Matters:**

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

<b>Texas Register Publication Date:</b>	February 14, 2014
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<b>Comments Received:</b>	None
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**Penalty Information**

<b>Total Penalty Assessed:</b>	\$12,900
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<b>Total Paid to General Revenue:</b>	\$12,900
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<b>Total Due to General Revenue:</b>	\$0
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<b>SEP Conditional Offset:</b>	N/A
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**Compliance History Classifications:**

Person/CN – Poor
Site/RN – Average

<b>Major Source:</b>	No
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<b>Statutory Limit Adjustment:</b>	None
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<b>Applicable Penalty Policy:</b>	September 2011 (PCW 1); September 2002 (PCW 2)
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**Attebury Grain, LLC**  
RN102420569  
Docket No. 2012-1326-AIR-E

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** December 1, 2011  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** March 13, 2012

**Violation Information**

1. Failed to maintain records of unauthorized emissions due to maintenance activities [TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 101.211(b) and 116.115(b)(2)(G); and NSR Permit No. 76905, General Conditions No. 9].
2. Failed to conduct required initial performance tests and failed to properly conduct initial opacity observations from all emission points [TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(c); 40 C.F.R. §§ 60.8(a) and 60.11; NSR Permit No. 76905, Special Conditions No. 2; and TCEQ Agreed Order Docket No. 2010-0418-AIR-E Ordering Provisions No. 2.g.].
3. Failed to operate in accordance with representations made in the permit application for NSR Permit No. 76905 [TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 116.115(b)(2) and 116.116(b)(1); and NSR Permit No. 76905, General Conditions No. 1].
4. Failed to comply with the visible emissions opacity limit of 5% for rail car loading and unloading operations [TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(c); 40 C.F.R. § 60.302; and NSR Permit No. 76905, Special Conditions No. 2].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. As of June 26, 2012, Respondent implemented procedures to ensure that records of maintenance activities are maintained.
2. Respondent's permit was revised on October 17, 2012 to reflect its current operating schedule of the Site and that the Site is a truck loading point for falling dust cake; and
3. On September 30, 2013 a TCEQ Dallas/Fort Worth Regional Office representative observed that:
  - a. Respondent properly conducted opacity testing on EPNs B5, B6, L1, L2, L3, L4, L5, L6, and P3 in accordance with 40 C.F.R. § 60 app. A, method 9; and
  - b. Respondent properly conducted collection and recovery testing on EPNs B5 and B6 in accordance with 40 C.F.R. § 60 app. A, methods 1 through 5.

**Technical Requirements:**

1. Within 30 days:
  - a. Complete the remaining performance tests required by 40 C.F.R. §§ 60.8 and 60.11 to demonstrate compliance with 40 C.F.R. Part 60, Subpart DD for grain elevators; and
  - b. Implement measures and/or procedures designed to prevent visible emissions from exceeding the visible emissions opacity limits in order to comply with 40 C.F.R. § 60.302.
2. Within 90 days, submit written certification to demonstrate compliance.

**Attebury Grain, LLC**  
**RN102420569**  
**Docket No. 2012-1326-AIR-E**

**Litigation Information**

**Date Petition(s) Filed:** January 8, 2013  
**Date Answer(s) Filed:** January 28, 2013  
**SOAH Referral Date:** March 12, 2013  
**Hearing Date(s):**  
    Preliminary Hearing: April 25, 2013 (waived)  
    Evidentiary Hearing: August 22, 2013 (continued); December 10, 2013 (scheduled)  
**Settlement Date:** November 27, 2013

**Contact Information**

**TCEQ Attorneys:** Jennifer Cook, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Eli Martinez, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Amancio Gutierrez, Enforcement Division, (512) 239-3921  
**TCEQ Regional Contact:** Elizabeth Smith, Dallas/Fort Worth Regional Office, (817) 588-5800  
**Respondent Contact:** Jimmie Bradley, Manager, Attebury Grain, LLC, 624 Burlington Rd,  
Saginaw, TX 76179  
**Respondent's Attorney:** Davis Purcell, Wells, Purcell & Kraatz, 1619 Pennsylvania Avenue, Fort  
Worth, Texas 76104

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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>	2-Jul-2012	<b>Screening</b>	3-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	7-Jan-2012				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Attebury Grain, LLC	
<b>Reg. Ent. Ref. No.</b>	RN102420569	
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b> Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	39332	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-1326-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amancio R. Gutierrez
		<b>EC's Team</b>	Enforcement Team 5
<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   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes **Final Penalty Amount** 

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes 

**PAYABLE PENALTY**

Screening Date 3-Jul-2012

Docket No. 2012-1326-AIR-E

PCW

Respondent Attebury Grain, LLC

Policy Revision 3 (September 2011)

Case ID No. 39332

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102420569

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

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

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for one agreed order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 20%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 20%

<b>Screening Date</b>	3-Jul-2012	<b>Docket No.</b>	2012-1326-AIR-E	<b>PCW</b>
<b>Respondent</b>	Attebury Grain, LLC	<i>Policy Revision 3 (September 2011)</i>		
<b>Case ID No.</b>	39332	<i>PCW Revision August 3, 2011</i>		
<b>Reg. Ent. Reference No.</b>	RN102420569			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Amancio R. Gutierrez			

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

**>> Programmatic Matrix**

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

**Matrix Notes**

**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**

**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 checked="" 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** Attebury Grain, LLC  
**Case ID No.** 39332  
**Reg. Ent. Reference No.** RN102420569  
**Media** Air  
**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	\$500	1-Dec-2011	27-Jun-2013	1.57	\$39	n/a	\$39
Training/Sampling	\$250	1-Dec-2011	27-Jun-2013	1.57	\$20	n/a	\$20
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement a recordkeeping system and evaluate each future event for reportability. The date required is the date of investigation and the final date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$750

**TOTAL** \$59



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	2-Jul-2012	<b>Screening</b>	3-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	7-Jan-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Attebury Grain, LLC		
<b>Reg. Ent. Ref. No.</b>	RN102420569		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39332	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-1326-AIR-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amancio R. Gutierrez
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$9,500
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
<b>Compliance History</b>	20.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,900

Notes: Enhancement for one agreed order with denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<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
Total EB Amounts	\$2,093	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$8,000		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$11,400
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes:

<b>Final Penalty Amount</b>	\$11,400
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$11,400
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)				

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$11,400
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Screening Date 3-Jul-2012

Docket No. 2012-1326-AIR-E

PCW

Respondent Attebury Grain, LLC

Policy Revision 2 (September 2002)

Case ID No. 39332

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102420569

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

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

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for one agreed order with denial of liability.

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

<b>Screening Date</b> 3-Jul-2012	<b>Docket No.</b> 2012-1326-AIR-E	<b>PCW</b>
<b>Respondent</b> Attebury Grain, LLC		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 39332		<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b> RN102420569		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Amancio R. Gutierrez		

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 101.20(1) and 116.115(c), 40 Code of Federal Regulations ("CFR") §§ 60.8(a) and 60.11, Agreed Order Docket No. 2010-0418-AIR-E Ordering Provisions No. 2.g., New Source Review ("NSR") Permit No. 76905 Special Conditions No. 2, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to conduct required initial performance tests. Specifically, the Respondent failed to conduct performance tests, for the particulate matter emissions from the grain terminal elevator exhaust stacks, emission point numbers ("EPNs") B1 through B9, and failing to properly conduct initial opacity observations from all emission points.

**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"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<b>Percent</b> <input type="text" value="5%"/>

>> **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%"/>

**Matrix Notes** Failure to perform required test methods could have resulted in the release of an insignificant amount of pollutants which would not exceed levels protective of human health and/or the environment.

**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**

Nine single events are recommended based on the failure to conduct required performance tests on nine emission points.

**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** Attebury Grain, LLC  
**Case ID No.** 39332  
**Reg. Ent. Reference No.** RN102420569  
**Media** Air  
**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	\$5,000	27-Jun-2006	27-Jun-2013	7.01	\$1,751	n/a	\$1,751
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to perform the required performance tests. The date required is the date the performance tests were required and the final date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$1,751

<b>Screening Date</b> 3-Jul-2012	<b>Docket No.</b> 2012-1326-AIR-E	<b>PCW</b>
<b>Respondent</b> Attebury Grain, LLC		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 39332		<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b> RN102420569		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Amancio R. Gutierrez		

**Violation Number**   
**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(b)(2) and 116.116(b)(1), NSR Permit No. 76905 General Conditions No. 1, and Tex. Health & Safety Code § 382.085(b)

**Violation Description**  
 Failed to operate in accordance with representations made in the permit application for NSR Permit No. 76905. Specifically, the permit amendment application dated December 29, 2010 represented that EPN L4 is a rail loading point for flowing grain instead of the actual usage, a truck loading point for falling dust cake. Additionally, the Respondent misrepresented the operating schedule of the Site. Permitted emission limits from the Site are based on a schedule of 9 hours per day, 5 days a week, 52 weeks per year, or 3,120 hours per year. These hours of operation are applicable to the off-season, but during the harvest season the Site operates up to 24 hours per day.

**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"/>	x	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>	

**>> Programmatic Matrix**

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

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

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

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

**Violation Base Penalty**

Four quarterly events are recommended based upon the date of permit issuance (August 4, 2011) through case screening (July 3, 2012).

**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	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** Attebury Grain, LLC  
**Case ID No.** 39332  
**Reg. Ent. Reference No.** RN102420569  
**Media** Air  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$1,000	4-Aug-2011	27-Jun-2013	1.90	\$95	n/a	\$95
Other (as needed)	\$1,000	4-Aug-2011	27-Jun-2013	1.90	\$95	n/a	\$95

Notes for DELAYED costs: Estimated cost for preparation and submittal of a permit amendment to include the correct EPN identification and hours of operation. The date required is the date of permit issuance and the final date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$2,000

**TOTAL** \$190

<b>Screening Date</b>	3-Jul-2012	<b>Docket No.</b>	2012-1326-AIR-E	<b>PCW</b>
<b>Respondent</b>	Attebury Grain, LLC			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	39332			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN102420569			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Amancio R. Gutierrez			

**Violation Number**

**Rule Cite(s)**  
 30 Tex. Admin. Code §§ 101.20(1) and 116.115(c), 40 CFR § 60.302, NSR Permit No. 76905 Special Conditions No. 2, and Tex. Health & Safety Code § 382.085(b)

**Violation Description**  
 Failed to comply with the visible emissions opacity limit of 5% for rail car loading and unloading operations. Specifically, the Respondent documented an average opacity of 44.6% from the Rail Loadout Spout EPNs L1 and L2 on June 14, 2010.

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>			<b>Percent</b> <input type="text" value="10%"/>
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text" value="x"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

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

**Adjustment**

**Violation Events**

Number of Violation Events        Number of violation days

*mark only one with an x*

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

**Violation Base Penalty**

One quarterly 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 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** Attebury Grain, LLC  
**Case ID No.** 39332  
**Reg. Ent. Reference No.** RN102420569  
**Media** Air  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	14-Jun-2010	27-Jun-2013	3.04	\$152	n/a	\$152

**Notes for DELAYED costs**  
 Estimated costs for implementing measures and/or installing equipment that will ensure that the Site can comply with the allowable opacity limits of 30% and 5%. The date required is the date of observation and the final date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$1,000

**TOTAL** \$152

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602867715 Attebury Grain, LLC Classification: AVERAGE Rating: 13.29  
Regulated Entity: RN102420569 ATTEBURY GRAIN ELEVATOR S Classification: POOR Site Rating: 88.33  
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER TA0136Q  
AIR NEW SOURCE PERMITS AFS NUM 4843900036  
AIR NEW SOURCE PERMITS PERMIT 76905  
Location: 624 BURLINGTON RD, SAGINAW, TX, 76179  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: July 3, 2012  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 03, 2007 to July 03, 2012  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: James Nolan Phone: (512) 239-6634

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If **YES**, who is the current owner/operator? N/A
4. If **YES**, who was/were the prior owner(s)/operator(s)? N/A
5. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

**Effective Date: 11/15/2010**

**ADMINORDER 2010-0418-AIR-E**

Classification: Major

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

Description: Failure to obtain authorization for the grain dust loading emission point. See additional discussion section for more information.

Classification: Moderate

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

Rqmt Prov: Special Condition 3 PERMIT

Description: Failure to obtain prior approval to increase maximum annual throughput for receiving operations, as required by SC 3 of TCEQ Air Permit #76905.

Classification: Moderate

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

Rqmt Prov: Special Condition 5 PERMIT

Description: Failure to maintain hours of operation for the truck loading spout (EPN L3) in order to determine compliance with SC 3 of Permit #76905, as required by SC 5 of Permit #76905.

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8(a)  
5C THSC Chapter 382 382.085(b)

Description: Failure to comply with 30 TAC 101.20(1) by not conducting the performance tests required by 40 CFR 60.8(a) to demonstrate compliance with the requirements of 40 CFR 60 (NSPS) Subpart DD.

Classification: Minor

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

Rqmt Prov: Special Condition 4 PERMIT

Description: Failure to clean up spillage on a daily basis as required by SC 4.D. of Permit #76905.

- 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 2/23/2009 (735901)

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

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

- Sites Outside of Texas

N/A

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ATTEBURY GRAIN, LLC;  
RN102420569**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2012-1326-AIR-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Attebury Grain, LLC ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Davis Purcell of the law firm Wells, Purcell & Kraatz, presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a grain elevator located at 624 Burlington Road in Saginaw, Tarrant County, Texas (the "Plant"). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on December 1, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
  - a. Failed to maintain records of unauthorized emissions due to maintenance activities. Specifically, Respondent conducted the cleaning of grain bins with vacuum equipment that resulted in unauthorized visible emissions, and Respondent was not maintaining records of these maintenance events;
  - b. Failed to conduct required initial performance tests for the particulate matter emissions from the grain terminal elevator exhaust stacks, identified as emission point numbers ("EPNs") B1 through B9, and failed to properly conduct initial opacity observations from all emission points;
  - c. Failed to operate in accordance with representations made in the permit application for New Source Review ("NSR") Permit No. 76905. Specifically, the permit amendment application dated December 29, 2010, represented that EPN

L4 is a rail loading point for flowing grain instead of the actual usage, which is a truck loading point for falling dust cake. Additionally, Respondent misrepresented the operating schedule of the Plant. Permitted emission limits from the Plant are based on a schedule of 9 hours per day, 5 days a week, 52 weeks per year, or 3,120 hours per year. These hours of operation are applicable to the off-season, but during the harvest season the Plant operates up to 24 hours per day; and

- d. Failed to comply with the visible emissions opacity limit of 5% for rail car loading and unloading. Specifically, Respondent documented an average opacity of 44.6% from the Rail Loadout Spout EPNs L1 and L2 on June 14, 2010.
3. Respondent received notice of the violations on or about March 18, 2012.
  4. The Executive Director recognizes that:
    - a. As of June 26, 2012, Respondent implemented procedures to ensure that records unauthorized emissions due to of maintenance activities are maintained;
    - b. Respondent's NSR permit was revised on October 17, 2012 to reflect the current operating schedule of the Plant and that the EPN L4 is a truck loading point for falling dust cake; and
    - c. On September 30, 2013 a TCEQ Dallas/Fort Worth Regional Office representative observed that:
      - i. Respondent properly conducted opacity testing on EPNs B5, B6, L1, L2, L3, L4, L5, L6, and P3 in accordance with 40 C.F.R. § 60 app. A, method 9; and
      - ii. Respondent properly conducted collection and recovery testing on EPNs B5 and B6 in accordance with 40 C.F.R. § 60 app. A, methods 1 through 5.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to maintain records of unauthorized emissions due to maintenance activities, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 101.211(b) and 116.115(b)(2)(G); and NSR Permit No. 76905, General Conditions No. 9.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to conduct required initial performance tests and failed to properly conduct initial opacity observations from all emission points in violation of TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(c); 40 C.F.R. §§ 60.8(a) and 60.11; NSR Permit No. 76905, Special Conditions No. 2; and TCEQ Agreed Order Docket No. 2010-0418-AIR-E, Ordering Provision No. 2.g.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to operate in accordance with representations made in the permit application for NSR Permit No. 76905, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 116.115(b)(2) and 116.116(b)(1); and NSR Permit No. 76905, General Conditions No. 1.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to comply with the visible emissions opacity limit of 5% for rail car loading and unloading operations, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 101.20(1) and 116.115(c); 40 C.F.R. § 60.302; and NSR Permit No. 76905, Special Conditions No. 2.

6. 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.
7. An administrative penalty in the amount of twelve thousand nine hundred dollars (\$12,900.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid twelve thousand nine hundred dollars (\$12,900.00) of the administrative penalty.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 7, above, 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 Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
    - i. Complete the remaining performance tests required by 40 C.F.R. §§ 60.8 and 60.11 to demonstrate compliance with 40 C.F.R. Part 60, Subpart DD for grain elevators; and
    - ii. Implement measures and/or procedures designed to prevent visible emissions from exceeding the visible emissions opacity limits in order to comply with 40 C.F.R. § 60.302.
  - b. Within 90 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a.i and 2.a.ii. 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 certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team  
Texas Commission on Environmental Quality  
Enforcement Division, MC 149A  
P.O. Box 13087  
Austin, Texas 78711-3087

and:

Alyssa Taylor, Air Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Dr.  
Fort Worth TX 76118-6951

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of 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 Plant 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. 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 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. 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.

11. 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 notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*M. Sweeney*  
For the Executive Director

*July 3, 2014*  
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 Attebury Grain, LLC, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this Agreed 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.

*Jimmie Bradley*  
Signature  
Jimmie Bradley  
Name (Printed or typed)  
Authorized representative of  
Attebury Grain, LLC

*11/27/13*  
Date  
*Elevator Manager*  
Title