

Executive Summary – Enforcement Matter – Case No. 50428

Plainview BioEnergy, LLC

RN101983278

Docket No. 2015-0624-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Plainview Bioenergy, located at 2698 East U.S. Highway 70, in the northwest quadrant of the intersection of State Road 789 and U.S. Highway 70, 3.5 miles east of Plainview, Hale County

Type of Operation:

Ethanol production via natural fermentation facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 25, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,960

Amount Deferred for Expedited Settlement: \$3,192

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$6,384

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$6,384

Name of SEP: Texoma Council of Governments (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 50428
Plainview BioEnergy, LLC
RN101983278
Docket No. 2015-0624-IWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 28, 2015

Date(s) of NOE(s): April 10, 2015

Violation Information

1. Failed to comply with permitted effluent limitations for total selenium [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004935000, Effluent Limitations and Monitoring Requirements No. 1].

2. Failed to include all effluent monitoring results on the discharge monitoring reports ("DMRs"). Specifically, the Respondent did not report the pH minimum and maximum on the DMRs for the months of October 2013 through March 2014, and May 2014, and total selenium daily average and maximum concentration and loading for the month of March 2014. Additionally, the pH maximum was not reported for the month of September 2014 [30 TEX. ADMIN. CODE §§ 305.125(1) and (17), 319.7(a)(4), and 319.1, and TPDES Permit No. WQ0004935000, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By April 14, 2014, the Respondent submitted revised DMRs that included the pH minimum and maximum for the months of October 2013, December 2013 through March 2014, and May 2014, as well as total selenium daily average and maximum concentration and loading for the month of March 2014.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

2. The Order will also require the Respondent to:

a. Within 30 days:

i. Submit revised DMRs for the months of November 2013, September 2014, and any subsequent month up to the most recent monitoring period that contains missing monitoring results; and

Executive Summary – Enforcement Matter – Case No. 50428
Plainview BioEnergy, LLC
RN101983278
Docket No. 2015-0624-IWD-E

ii. Update the Facility's operational guidance and conduct employee training to ensure that complete DMRs are submitted.

b. Within 45 days, submit written certification of compliance with a.

c. Within 90 days, submit written certification of compliance with the effluent limitations of TPDES Permit No. WQ0004935000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jason Fraley, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-2552; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: Grant H. Johanson, Vice President of Operations, Plainview BioEnergy,
LLC, 2475 North Dallas Parkway, Suite 67, Plano, Texas 75093

Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-0624-IWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Plainview BioEnergy, LLC
Penalty Amount:	Twelve Thousand Seven Hundred Sixty-Eight Dollars (\$12,768)
SEP Offset Amount:	Six Thousand Three Hundred Eighty-Four Dollars (\$6,384)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texoma Council of Governments
Project Name:	<i>Household Hazardous Waste Collection Events</i>
Location of SEP:	Cooke, Fannin, & Grayson Counties; Red River, Trinity River, & Sulphur River Basins

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texoma Council of Governments** for the *Household Hazardous Waste Collection Events* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to hold household hazardous waste (“HHW”) collection events in three regional locations, Cooke, Grayson, and Fannin Counties, to offer citizens the opportunity to recycle and/or dispose of hazardous material including paint, tires, poisons, antifreeze, used electronics, and other items that are difficult to dispose of in order to deter illegal dumping of these materials. The SEP Offset Amount will be used to hire a licensed contractor to set up operations at the three locations. Materials that are received for recycling or disposal will be removed by the contractor and transported to a licensed facility for proper disposal of all waste collected at the events. The licensed contractor will process and handle all material dropped off at the events. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Illegal dumping is a significant environmental concern. HHW collection events take a major burden off of local governments and provide a means for citizens to easily recycle and dispose of hazardous items. The majority of the region of Cooke, Fannin, and Grayson Counties is rural. HHW Collection services are not available to many of the region's rural citizens, leading people to collect hazardous materials on their properties or to improperly dispose of them. These events will reduce the amount of illegal dumping in the area, which reduces pollutants on land and in water. Additionally, in areas where adequate disposal facilities are not available, hazardous materials often end up in creeks or ditches along roadsides, which impacts water quality and wildfire.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texoma Council of Governments SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texoma Council of Governments
Attention: David Trout, Municipal Solid Waste Program Manager
1117 Gallagher Drive
Sherman, Texas 75090

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Plainview BioEnergy, LLC
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

Plainview BioEnergy, LLC
Agreed Order - Attachment A

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	20-Apr-2015	Screening	22-Apr-2015	EPA Due	
	PCW	22-Apr-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Plainview BioEnergy, LLC
Reg. Ent. Ref. No.	RN101983278
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	50428	No. of Violations	2
Docket No.	2015-0624-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jason Fraley
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$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 Adjustment **Subtotals 2, 3, & 7**

Notes: Enhancement for five months of self-reported effluent violations, two NOV's with dissimilar violations, and two orders containing a denial of liability. Reduction for submitting a Notice of Intent for an intended environmental audit.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **Final Assessed Penalty**

Screening Date 22-Apr-2015

Docket No. 2015-0624-IWD-E

PCW

Respondent Plainview BioEnergy, LLC

Policy Revision 4 (April 2014)

Case ID No. 50428

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101983278

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

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>)	5	25%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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 judgments 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>)	1	-1%
	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) 68%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five months of self-reported effluent violations, two NOVs with dissimilar violations, and two orders containing a denial of liability. Reduction for submitting a Notice of Intent for an intended environmental audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 68%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 68%

Screening Date 22-Apr-2015

Docket No. 2015-0624-IWD-E

PCW

Respondent Plainview BioEnergy, LLC

Policy Revision 4 (April 2014)

Case ID No. 50428

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101983278

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004935000, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on January 28, 2015, and shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

A simplified model was used to evaluate selenium to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 61

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

Violation Base Penalty \$7,500

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV - NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$773

Violation Final Penalty Total \$12,600

This violation Final Assessed Penalty (adjusted for limits) \$12,600

Economic Benefit Worksheet

Respondent Plainview BioEnergy, LLC
Case ID No. 50428
Reg. Ent. Reference No. RN101983278
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Aug-2014	17-Mar-2016	1.55	\$773	n/a	\$773

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance, 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 \$10,000

TOTAL \$773

Screening Date 22-Apr-2015
Respondent Plainview BioEnergy, LLC
Case ID No. 50428
Reg. Ent. Reference No. RN101983278
Media [Statute] Water Quality
Enf. Coordinator Jason Fraley

Docket No. 2015-0624-IWD-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17), 319.7(a)(4), and 319.1, and TPDES Permit No. WQ0004935000, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to include all effluent monitoring results on the discharge monitoring reports ("DMRs"), as documented during a record review conducted on January 28, 2015. Specifically, the Respondent did not report the pH minimum and maximum on the DMRs for the months of October 2013 through March 2014, and May 2014, and total selenium daily average and maximum concentration and loading for the month of March 2014. Additionally, the pH maximum was not reported for the month of September 2014.

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 type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>

Percent

Matrix Notes

More than 70% of the permit requirements were 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="checkbox"/>

Violation Base Penalty

Eight single events are recommended (one for each incomplete DMR).

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(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 Plainview BioEnergy, LLC
Case ID No. 50428
Reg. Ent. Reference No. RN101983278
Media Violation No. Water Quality 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	20-Nov-2013	1-Feb-2016	2.20	\$22	n/a	\$22
Training/Sampling	\$250	28-Jan-2015	1-Feb-2016	1.01	\$13	n/a	\$13
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 submit complete DMRs (\$25 per DMR x eight DMRs). The date required is the date the first DMR was due, and the final date is the estimated date of compliance.

Estimated cost to update operational guidance and conduct employee training to ensure the submittal of complete DMRs. The date required is the record review date, 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	\$450	TOTAL	\$35
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Plainview BioEnergy, LLC
Docket No. 2015-0624-IWD-E
TPDES Permit No. WQ0004935000

Effluent Violation Table

Monitoring Periods	Total Selenium Daily Average Concentration	Total Selenium Daily Maximum Concentration	Total Selenium Daily Average Loading	Total Selenium Daily Maximum Loading
Limit	0.016 mg/L	0.036 mg/L	0.076 lbs/day	0.171 lbs/day
August 2014	0.03	0.092	c	c
September 2014	0.049	0.168	0.103	0.353

lbs/day = pounds per day

c = compliant

mg/L = milligrams per liter

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



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603145491, RN101983278, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN603145491, Plainview BioEnergy, LLC **Classification:** SATISFACTORY **Rating:** 2.14

Regulated Entity: RN101983278, Plainview Bioenergy **Classification:** SATISFACTORY **Rating:** 2.14

Complexity Points: 15 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 2698 EAST UNITED STATES HIGHWAY 70, IN THE NORTHWEST QUADRANT OF THE INTERSECTION OF STATE ROAD 789 AND UNITED STATES HIGHWAY 70, 3.5 MILES EAST OF PLAINVIEW, HALE COUNTY, TEXAS

TCEQ Region: REGION 02 - LUBBOCK

ID Number(s):

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HA0179P

AIR NEW SOURCE PERMITS REGISTRATION 50432

AIR NEW SOURCE PERMITS REGISTRATION 56046

AIR NEW SOURCE PERMITS REGISTRATION 123081

STORMWATER PERMIT TXR05X214

WASTEWATER PERMIT WQ0004935000

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HA0179P

INDUSTRIAL AND HAZARDOUS WASTE OTS REQUEST 37986

AIR NEW SOURCE PERMITS PERMIT 50867

AIR NEW SOURCE PERMITS PERMIT 78440

AIR NEW SOURCE PERMITS REGISTRATION 119883

AIR NEW SOURCE PERMITS AFS NUM 4818900038

WASTEWATER EPA ID TX0132705

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0950073

PETROLEUM STORAGE TANK REGISTRATION 82974

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXP490352340

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: May 13, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 13, 2010 to May 13, 2015

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

Name: Jason Fraley

Phone: (512) 239-2552

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

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

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

- 1 Effective Date: 10/15/2010 ADMINORDER 2010-0825-IWD-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 30 TAC Chapter 305, SubChapter D 305.65
30 TAC Chapter 305, SubChapter F 305.125(2)
TWC Chapter 26 26.121
Description: Failure to maintain required industrial wastewater permit.
- 2 Effective Date: 03/21/2013 ADMINORDER 2012-2140-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
30 TAC Chapter 290, SubChapter F 290.106(e)
- Description: NO32 MR 2Q2011 - The system failed to monitor and/or failed to report nitrate/nitrite levels to the TCEQ for the quarterly monitoring period from 04/01/2011 to 06/30/2011.
Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
30 TAC Chapter 290, SubChapter F 290.106(e)
- Description: NO32 MR 3Q2011 - The system failed to monitor and/or failed to report nitrate/nitrite levels to the TCEQ for the quarterly monitoring period from 07/01/2011 to 09/30/2011.
Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
30 TAC Chapter 290, SubChapter F 290.106(e)
- Description: NO32 MR 4Q2011 - The system failed to monitor and/or failed to report nitrate/nitrite levels to the TCEQ for the quarterly monitoring period from 10/01/2011 to 12/31/2011.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CEDS Inv. Track. No.):

Item 1	July 12, 2010	(830099)
Item 2	March 01, 2011	(895592)
Item 3	April 25, 2011	(940289)
Item 4	May 27, 2011	(954921)
Item 5	June 27, 2011	(947656)
Item 6	August 26, 2011	(961524)
Item 7	September 26, 2011	(967654)
Item 8	November 03, 2011	(979704)
Item 9	December 05, 2011	(986558)
Item 10	February 24, 2012	(1000280)
Item 11	April 04, 2012	(1012383)
Item 12	April 26, 2012	(1012384)
Item 13	May 25, 2012	(1018747)
Item 14	June 20, 2012	(1026479)
Item 15	July 20, 2012	(1033812)
Item 16	August 28, 2012	(1040370)
Item 17	September 26, 2012	(1049350)
Item 18	October 26, 2012	(1071133)
Item 19	November 20, 2012	(1071134)
Item 20	December 17, 2012	(1071135)
Item 21	January 25, 2013	(1083858)
Item 22	February 19, 2013	(1083857)
Item 23	March 19, 2013	(1091656)
Item 24	May 22, 2013	(1098010)
Item 25	June 24, 2013	(1112594)
Item 26	July 22, 2013	(1119573)

Item 27	August 16, 2013	(1127315)
Item 28	September 20, 2013	(1131835)
Item 29	October 18, 2013	(1137605)
Item 30	January 07, 2014	(1149424)
Item 31	January 15, 2014	(1155531)
Item 32	February 07, 2014	(1146136)
Item 33	February 19, 2014	(1162866)
Item 34	March 25, 2014	(1169446)
Item 35	April 23, 2014	(1176652)
Item 36	May 28, 2014	(1182909)
Item 37	July 03, 2014	(1189773)
Item 38	July 23, 2014	(1195033)
Item 39	November 14, 2014	(1204873)
Item 40	December 03, 2014	(1209604)
Item 41	December 07, 2014	(1211243)
Item 42	February 24, 2015	(1244523)

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

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

- 1 Date: 08/31/2014 (1208064) CN603145491
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 2 Date: 09/30/2014 (1214473) CN603145491
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 11/30/2014 (1226550) CN603145491
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 4 Date: 12/31/2014 (1233819) CN603145491
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 5 Date: 01/26/2015 (1216946) CN603145491
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide an initial notification report of Incident No. 200618 to the TCEQ Region 2 Office within 24 hours of discovering the incident, in violation of 30 TAC §101.201. The final report was submitted on July 3, 2014, 9 days after the required date.
- 6 Date: 01/29/2015 (1221734) CN603145491
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)
5C THSC Chapter 382 382.085(b)
Description: Failure to provide a final record of reportable and non-reportable emissions events as soon as practicable, but no later than two weeks after the end of an event, in violation of 30 TAC §101.201(b) and 5C THSC §382.085(b).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)
Description: Failure to create a complete final report, specifically, address the known causes of the emissions event and the actions taken to minimize those emissions, in violation of 30 TAC §101.201(b)(1) and and 5C THSC §382.085(b).

7

Date: 02/28/2015 (1250918)

CN603145491

Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

Notice of Intent Date: 10/31/2013 (1132585)

No DOV Associated

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PLAINVIEW BIOENERGY, LLC
RN101983278**

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

**AGREED ORDER
DOCKET NO. 2015-0624-IWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Plainview BioEnergy, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an ethanol production via natural fermentation facility at 2698 East United States Highway 70, in the northwest quadrant of the intersection of State Road 789 and United States Highway 70, 3.5 miles east of Plainview, Hale County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 15, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fifteen Thousand Nine Hundred Sixty Dollars (\$15,960) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Three Hundred Eighty-Four Dollars (\$6,384) of the administrative penalty and Three Thousand One Hundred Ninety-Two Dollars (\$3,192) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Six Thousand Three Hundred Eighty-Four Dollars (\$6,384) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP")
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that by April 14, 2014, the Respondent submitted revised discharge monitoring reports ("DMRs") that included the pH minimum and maximum for the months of October 2013, December 2013 through March 2014, and May 2014, as well as total selenium daily average and maximum concentration and loading for the month of March 2014.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004935000, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on January 28, 2015, and shown in the table below:

Effluent Violation Table				
Monitoring Periods	Total Selenium Daily Average Concentration	Total Selenium Daily Maximum Concentration	Total Selenium Daily Average Loading	Total Selenium Daily Maximum Loading
Limit	0.016 mg/L	0.036 mg/L	0.076 lbs/day	0.171 lbs/day
August 2014	0.03	0.092	c	c
September 2014	0.049	0.168	0.103	0.353

lbs/day = pounds per day

c = compliant

mg/L = milligrams per liter

- Failed to include all effluent monitoring results on the DMRs, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17), 319.7(a)(4), and 319.1, and TPDES Permit No. WQ0004935000, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on January 28, 2015. Specifically, the Respondent did not report the pH minimum and maximum on the DMRs for the months of October 2013 through March 2014, and May 2014, and total selenium daily average and maximum concentration and loading for the month of March 2014. Additionally, the pH maximum was not reported for the month of September 2014.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

- It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Plainview BioEnergy, LLC, Docket No. 2015-0624-IWD-E" to:

Financial Administration Division, Revenue Operations Section
 Attention: Cashier's Office, MC 214
 Texas Commission on Environmental Quality
 P.O. Box 13088
 Austin, Texas 78711-3088

- The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand Three Hundred Eighty-Four Dollars (\$6,384) of the assessed administrative penalty shall be offset with

the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit revised DMRs for the month of November 2013, the month of September 2014, and any subsequent month up to the most recent monitoring period that contains missing monitoring results; and
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that complete DMRs are submitted.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions No. 3.a., in accordance with Ordering Provisions No. 3.c.
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limitations of TPDES Permit No. WQ0004935000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certifications required by Ordering Provisions Nos. 3.b. and 3.c. shall be notarized by a State of Texas Notary Public and 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing",

and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission or the Executive Director. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

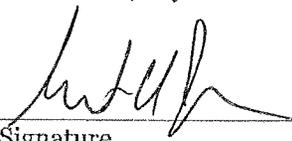
11/19/15
Date

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

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

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

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


Signature

10/13/2015
Date

GRANT H. JOHANSON
Name (Printed or typed)
Authorized Representative of
Plainview BioEnergy, LLC

V.P. OPERATIONS
Title

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

Attachment A

Docket Number: 2015-0624-IWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Plainview BioEnergy, LLC
Penalty Amount:	Twelve Thousand Seven Hundred Sixty-Eight Dollars (\$12,768)
SEP Offset Amount:	Six Thousand Three Hundred Eighty-Four Dollars (\$6,384)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texoma Council of Governments
Project Name:	<i>Household Hazardous Waste Collection Events</i>
Location of SEP:	Cooke, Fannin, & Grayson Counties; Red River, Trinity River, & Sulphur River Basins

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texoma Council of Governments** for the *Household Hazardous Waste Collection Events* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to hold household hazardous waste (“HHW”) collection events in three regional locations, Cooke, Grayson, and Fannin Counties, to offer citizens the opportunity to recycle and/or dispose of hazardous material including paint, tires, poisons, antifreeze, used electronics, and other items that are difficult to dispose of in order to deter illegal dumping of these materials. The SEP Offset Amount will be used to hire a licensed contractor to set up operations at the three locations. Materials that are received for recycling or disposal will be removed by the contractor and transported to a licensed facility for proper disposal of all waste collected at the events. The licensed contractor will process and handle all material dropped off at the events. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Illegal dumping is a significant environmental concern. HHW collection events take a major burden off of local governments and provide a means for citizens to easily recycle and dispose of hazardous items. The majority of the region of Cooke, Fannin, and Grayson Counties is rural. HHW Collection services are not available to many of the region's rural citizens, leading people to collect hazardous materials on their properties or to improperly dispose of them. These events will reduce the amount of illegal dumping in the area, which reduces pollutants on land and in water. Additionally, in areas where adequate disposal facilities are not available, hazardous materials often end up in creeks or ditches along roadsides, which impacts water quality and wildfire.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texoma Council of Governments SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texoma Council of Governments
Attention: David Trout, Municipal Solid Waste Program Manager
1117 Gallagher Drive
Sherman, Texas 75090

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Plainview BioEnergy, LLC
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

Plainview BioEnergy, LLC
Agreed Order - Attachment A

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.