

Executive Summary – Enforcement Matter – Case No. 49328
TCI Lonestar Inc and ALMO INVESTMENT II, LTD. dba TEXAS BEST
SMOKEHOUSE III
RN105578959
Docket No. 2014-1357-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

TEXAS BEST SMOKEHOUSE III, 16243 U.S. Highway 271, Tyler, Smith County

Type of Operation:

Travel plaza with an associated on-site sewage facility ("OSSF")

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 25, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,250

Amount Deferred for Expedited Settlement: \$2,450

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,800

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications (CN603386707):

Person/CN - High

Site/RN - High

Compliance History Classifications (CN601101454):

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 49328
TCI Lonestar Inc and ALMO INVESTMENT II, LTD. dba TEXAS BEST
SMOKEHOUSE III
RN105578959
Docket No. 2014-1357-WQ-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 29, 2014

Date(s) of NOE(s): August 8, 2014

Violation Information

1. Failed to obtain authorization to discharge wastewater. Specifically, the existing OSSF treats and disposes of approximately 7,000 gallons per day (“GPD”) of wastewater, which exceeds the permissible treatment capacity of 5,000 GPD for an OSSF [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 305.42(a)].

2. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, wastewater was discharging from the irrigation field of the OSSF through a storm drain and into an unnamed tributary of Simpson Creek [TEX. WATER CODE § 26.121(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondents to:

- a. Immediately, continue maintaining a wastewater flow rate to the OSSF that does not exceed 5,000 GPD until the wastewater generated by the travel plaza is being sent to the East Texas Municipal Utility District for treatment and disposal.

- b. Within 15 days, submit written certification of compliance with a.

- c. Within 330 days, submit written certification of compliance that the East Texas Municipal Utility District’s new wastewater collection system line adjacent to the travel plaza has been installed and wastewater from the travel plaza is being sent to the East Texas Municipal Utility District for treatment and disposal,

OR, if the wastewater collection system line will not be constructed, submit written certification of compliance that all necessary measures are being taken to permanently maintain a wastewater flow rate that does not exceed 5,000 GPD to the OSSF.

Executive Summary – Enforcement Matter – Case No. 49328
TCI Lonestar Inc and ALMO INVESTMENT II, LTD. dba TEXAS BEST
SMOKEHOUSE III
RN105578959
Docket No. 2014-1357-WQ-E

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: Ross Luedtke, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-3157; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548
TCEQ SEP Coordinator: N/A
Respondent: Tambi Idris, President, TCI Lonestar Inc, 16243 U.S. Highway 271,
Tyler, Texas 75708
Mike Tatai, President, ALMO INVESTMENT II, LTD., P.O. Box 2599, Waxahachie,
Texas 75168
Respondent's Attorney: Parker L. Graham, Carrington, Coleman, Sloman &
Blumenthal, L.L.P., 901 Main Street, Suite 5500, Dallas, Texas 75202



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	26-Aug-2014	Screening	9-Sep-2014	EPA Due	
	PCW	2-Jun-2016				

RESPONDENT/FACILITY INFORMATION	
Respondent	TCI Lonestar Inc and ALMO INVESTMENT II, LTD. dba TEXAS BEST SMOKEHOUSE III
Reg. Ent. Ref. No.	RN105578959
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	49328	Order Type	1660
Docket No.	2014-1357-WQ-E	Government/Non-Profit	No
Media Program(s)	Water Quality	Enf. Coordinator	Christopher Bost
Multi-Media		EC's Team	Enforcement Team 1
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 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	\$25,373
Estimated Cost of Compliance	\$105,000

*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 9-Sep-2014

Docket No. 2014-1357-WQ-E

PCW

TCI Lonestar Inc and ALMO INVESTMENT II, LTD. dba TEXAS BEST

Respondent SMOKEHOUSE III

Policy Revision 4 (April 2014)

Case ID No. 49328

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105578959

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of 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>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 9-Sep-2014

Docket No. 2014-1357-WQ-E

PCW

TCI Lonestar Inc and ALMO INVESTMENT II, LTD. dba TEXAS BEST

Respondent SMOKEHOUSE III

Policy Revision 4 (April 2014)

Case ID No. 49328

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105578959

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 305.42(a)

Violation Description

Failed to obtain authorization to discharge wastewater, as documented during an investigation conducted on April 29, 2014. Specifically, the existing on-site sewage facility ("OSSF") treats and disposes of approximately 7,000 gallons per day ("GPD") of wastewater, which exceeds the permissible treatment capacity of 5,000 GPD for an OSSF.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 5 Number of violation days 133

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

Violation Base Penalty \$6,250

Five monthly events are recommended from the investigation date (April 29, 2014) to the screening date (September 9, 2014).

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

Violation Subtotal \$6,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25,373

Violation Final Penalty Total \$8,750

This violation Final Assessed Penalty (adjusted for limits) \$8,750

Economic Benefit Worksheet

Respondent TCI Lonestar Inc and ALMO INVESTMENT II, LTD. dba TEXAS BEST SMOKEHOUSE III
Case ID No. 49328
Reg. Ent. Reference No. RN105578959
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	29-Apr-2014	25-Oct-2017	3.49	\$58	\$1,164	\$1,223
Engineering/Construction	\$100,000	29-Apr-2014	25-Oct-2017	3.49	\$1,164	\$23,288	\$24,452
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The Other (as needed) cost is the estimated amount to continue maintaining a wastewater flow rate to the OSSF that does not exceed 5,000 gallons per day until the wastewater generated by the travel plaza is being sent to the East Texas Municipal Utility District for treatment and disposal. Date required is the investigation date. Final date is the estimated date of compliance.

The Engineering/Construction cost is the estimated amount to tie into the East Texas Municipal Utility District's wastewater collection system line adjacent to the travel plaza and begin sending wastewater to the East Texas Municipal Utility District for treatment and disposal. Date required is the investigation date. Final date is the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$105,000

TOTAL

\$25,675

Screening Date 9-Sep-2014

Docket No. 2014-1357-WQ-E

PCW

TCI Lonestar Inc and ALMO INVESTMENT II, LTD. dba TEXAS

Respondent BEST SMOKEHOUSE III

Policy Revision 4 (April 2014)

Case ID No. 49328

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105578959

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on April 29, 2014. Specifically, wastewater was discharging from the irrigation field of the OSSF through a storm drain and into an unnamed tributary of Simpson Creek.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

133 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the date of the investigation (April 29, 2014) to the screening date (September 9, 2014).

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,500

This violation Final Assessed Penalty (adjusted for limits) \$3,500

Economic Benefit Worksheet

Respondent TCI Lonestar Inc and ALMO INVESTMENT II, LTD. dba TEXAS BEST SMOKEHOUSE III
Case ID No. 49328
Reg. Ent. Reference No. RN105578959
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See the Economic Benefit for Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

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TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603386707, RN105578959, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN603386707, TCI Lonestar Inc	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN105578959, TEXAS BEST SMOKEHOUSE III	Classification: HIGH	Rating: 0.00
Complexity Points:	3	Repeat Violator: NO	
CH Group:	14 - Other		
Location:	16243 United States Highway 271 in Tyler, Smith County, Texas		
TCEQ Region:	REGION 05 - TYLER		

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 78918

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

Date Compliance History Report Prepared: April 03, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 03, 2010 to April 03, 2015

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

Name: Jacquelyn Green

Phone: (512) 239-2587

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 July 06, 2012 (1015184)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

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 CN601101454, RN105578959, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN601101454,ALMO INVESTMENT II, LTD. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN105578959, TEXAS BEST SMOKEHOUSE III **Classification:** HIGH **Rating:** 0.00

Complexity Points: 6 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 16243 United States Highway 271 in Tyler, Smith County, Texas

TCEQ Region: REGION 05 - TYLER

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 78918

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

Date Compliance History Report Prepared: April 03, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 03, 2010 to April 03, 2015

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

Name: Jacquelyn Green

Phone: (512) 239-2587

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 July 06, 2012 (1015184)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

6. An administrative penalty in the amount of Twelve Thousand Two Hundred Fifty Dollars (\$12,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid Nine Thousand Eight Hundred Dollars (\$9,800) of the administrative penalty and Two Thousand Four Hundred Fifty Dollars (\$2,450) is deferred contingent upon the Respondents' 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 Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondents to pay all or part of the deferred penalty.
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 Respondents 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 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 Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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 owners and operators of the OSSF, the Respondents are alleged to have:

1. Failed to obtain authorization to discharge wastewater, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 305.42(a), as documented during an investigation conducted on April 29, 2014. Specifically, the existing OSSF treats and disposes of approximately 7,000 gallons per day ("GPD") of wastewater, which exceeds the permissible treatment capacity of 5,000 GPD for an OSSF.
2. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on April 29, 2014. Specifically, wastewater was discharging from the irrigation field of the OSSF through a storm drain and into an unnamed tributary of Simpson Creek.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondents' 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: TCI Lonestar Inc and ALMO INVESTMENT II, LTD. dba TEXAS BEST SMOKEHOUSE III, Docket No. 2014-1357-WQ-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
2. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. It is further ordered that the Respondents shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Agreed Order, continue maintaining a wastewater flow rate to the OSSF that does not exceed 5,000 gallons per day ("GPD") until the wastewater generated by the travel plaza is being sent to the East Texas Municipal Utility District for treatment and disposal.
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a, in accordance with Ordering Provision No. 3.d below.
 - c. Within 330 days after the effective date of this Agreed Order, submit written certification of compliance that the East Texas Municipal Utility District's new wastewater collection system line adjacent to the travel plaza has been installed and wastewater from the travel plaza is being sent to the East Texas Municipal Utility District for treatment and disposal, in accordance with Ordering Provision No. 3.d below;

OR, if the wastewater collection system line will not be constructed, submit written certification of compliance that all necessary measures are being taken to

permanently maintain a wastewater flow rate that does not exceed 5,000 GPD to the OSSF.

- d. The written certifications of compliance required by Ordering Provisions Nos. 3.b and 3.c shall include detailed supporting documentation including photographs, receipts, and/or other records, 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 certifications shall be submitted to:

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

with copies to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are 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 Respondents fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive 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 Respondents 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. 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

Date



For the Executive Director

10/3/16

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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

08-30-2016

Date

TAMBI INRIS

Name (Printed or typed)
Authorized Representative of
TCI Lonestar Inc

PRESIDENT

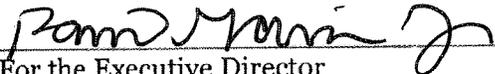
Title

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

If mailing address has changed, please check this box and provide the new address below:

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____ For the Commission	_____ Date
 _____ For the Executive Director	<u>10/3/16</u> _____ Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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.

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- 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	<u>8-18-16</u> _____ Date
<u>Mike Tabai</u> _____ Name (Printed or typed) Authorized Representative of ALMO INVESTMENT II, LTD. dba TEXAS BEST SMOKEHOUSE III	<u>President</u> _____ Title

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If mailing address has changed, please check this box and provide the new address below: