

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2006-0121-MLM-E TCEQ ID: RN104812334 CASE NO.: 28148
RESPONDENT NAME: LYNN TURNEY

| | | |
|---|--|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input checked="" type="checkbox"/> AIR | <input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply) | <input checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: 3102 West Highway 377, Grandbury, Hood County</p> <p>TYPE OF OPERATION: Unauthorized waste disposal site</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: One complaint was received. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: One complaint has been received but the complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 23, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Brian Elliott, Air Enforcement Section, MC 149, (512) 239-6162 TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903 Respondent: Mr. Lynn Turney, 3102 West Highway 377, Grandbury, Texas 76048 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p> | | |

TEXAS
 COMMISSION
 ON ENVIRONMENTAL
 QUALITY
 7/7 SEP -7 PM 3:37
 CHIEF CLERK'S OFFICE

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|--|---|
| <p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: October 25, 2005</p> <p>Dates of Investigation Relating to this Case: October 25 and October 26, 2005</p> <p>Date of NOE Relating to this Case: January 16, 2006</p> <p>Background Facts: An EDPRP was filed on September 13, 2006. The Respondent signed an Agreed Order on February 12, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MLM:</p> <p>1) Failed to prevent the disposal of municipal solid waste and industrial solid waste at an unauthorized disposal site. Specifically, during the investigation, it was documented that the Respondent disposed of at least 240 cubic yards of brush, construction-demolition waste, and debris from a former portable building manufacturing operation on personal property not authorized to accept the type of waste being disposed [30 TEX. ADMIN. CODE §§ 330.5(a) and 335.2(a)].</p> <p>2) Failed to prevent any outdoor burning. Specifically, during the investigation it was documented that the Respondent burned municipal solid waste and industrial solid waste at an unauthorized disposal site [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$3,000</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,000 The Respondent has paid the administrative penalty in full.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent transported all of the waste to an authorized municipal/industrial solid waste facility on or about January 5, February 15, and April 14, 2006.</p> <p>The Executive Director further recognizes that the Respondent has ceased accepting construction-demolition waste, and has also ceased burning municipal and industrial solid waste.</p> |



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 17-Jan-2006 | Screening | 30-Jan-2006 | EPA Due | |
| | PCW | 11-Apr-2006 | | | | |

| | |
|--|---------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Lynn Turney |
| Reg. Ent. Ref. No. | RN104812334 |
| Facility/Site Region | 4-Dallas/Fort Worth |
| Major/Minor Source | Minor Source |

| | | | |
|--|-------------------------------------|--------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 28148 | No. of Violations | 2 |
| Docket No. | 2006-0121-MLM-E | Order Type | 1660 |
| Media Program(s) | Municipal Solid Waste | Enf. Coordinator | Bryan Elliott |
| Multi-Media | Industrial Solid Waste; Air Quality | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

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 Reduction **Subtotal 5**

| | | |
|---------------|----------------------|------------------------------|
| | Before NOV | NOV to EDRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | X | (mark with a small x) |

Notes

Economic Benefit Enhancement* **Subtotal 6**

| | | |
|----------------------------|--------------------------------------|-----------------------------------|
| Total EB Amounts | <input type="text" value="\$203"/> | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | <input type="text" value="\$4,000"/> | |

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 30-Jan-2006 **Docket No.** 2006-0121-MLM-E **PCW**
Respondent Lynn Turney *Policy Revision 2 (September 2002)*
Case ID No. 28148 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN104812334
Media [Statute] Municipal Solid Waste
Enf. Coordinator Bryan Elliott

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

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

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

Screening Date 30-Jan-2006

Docket No. 2006-0121-MLM-E

PCW

Respondent Lynn Turney

Policy Revision 2 (September 2002)

Case ID No. 28148

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104812334

Media [Statute] Municipal Solid Waste

Enf. Coordinator Bryan Elliott

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description
 Failure to prevent the disposal of municipal solid waste and industrial solid waste at an unauthorized disposal site. Specifically, during the investigation, it was documented that the respondent disposed of at least 240 cubic yards of brush, construction-demolition waste, and debris from a former portable building manufacturing operation on personal property not authorized to accept the type of waste being disposed.

Base Penalty

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

Harm

| Release | Harm | | |
|-----------|----------------------|----------------------|-------------------------------------|
| | Major | Moderate | Minor |
| Actual | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> |
| 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 type="text"/> |

Percent

Matrix Notes

Human health and the environment has been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--|---------------------|-------------------------------------|
| <i>mark only one use a small x</i> | <i>daily</i> | <input type="text"/> |
| | <i>monthly</i> | <input type="text"/> |
| | <i>quarterly</i> | <input checked="" type="checkbox"/> |
| | <i>semiannual</i> | <input type="text"/> |
| | <i>annual</i> | <input type="text"/> |
| | <i>single event</i> | <input type="text"/> |

Violation Base Penalty

Two quarterly events are recommended based on documentation of the violation during the October 25 and 26, 2005 investigations to the January 30, 2006 enforcement screening date.

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 Lynn Turney
Case ID No. 28148
Reg. Ent. Reference No. RN104812334
Media [Statute] Municipal Solid Waste
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 |
|--------------------------|------------------|----------------------|-------------------|------------|-----------------------|----------------------|------------------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | \$4,000 | 25-Oct-2005 | 31-Oct-2006 | 1.0 | \$203 | n/a | \$203 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

This is an estimated cost to properly dispose of approximately 240 cubic yards of municipal and industrial solid waste at a facility authorized to accept the type of waste being disposed.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance **\$4,000**

TOTAL \$203

Screening Date 30-Jan-2006

Docket No. 2006-0121-MLM-E

PCW

Respondent Lynn Turney

Policy Revision 2 (September 2002)

Case ID No. 28148

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104812334

Media [Statute] Municipal Solid Waste

Enf. Coordinator Bryan Elliott

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

| Release | Harm | | |
|-----------|----------------------|----------------------|-------------------------------------|
| | Major | Moderate | Minor |
| Actual | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> |
| 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 type="text"/> |

Percent

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | | |
|--|---------------------|-------------------------------------|
| <i>mark only one use a small x</i> | <i>daily</i> | <input type="text"/> |
| | <i>monthly</i> | <input type="text"/> |
| | <i>quarterly</i> | <input type="text"/> |
| | <i>semiannual</i> | <input type="text"/> |
| | <i>annual</i> | <input type="text"/> |
| | <i>single event</i> | <input checked="" type="checkbox"/> |

Violation Base Penalty

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 Lynn Turney
 Case ID No. 28148
 Reg. Ent. Reference No. RN104812334
 Media [Statute] Municipal Solid Waste
 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 |
|--------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| Delayed Costs | | | | | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs: The economic benefit for this violation is included in violation No. 1 of this penalty calculation worksheet addressing the municipal and industrial solid waste violations at the respondent's property.

| Avoided Costs | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN602959249 TURNEY, LYNN Classification: AVERAGE Rating: 3.01
BY DEFAULT
Regulated Entity: RN104812334 FORMER ET PORTABLE BUILDINGS Classification: AVERAGE Site Rating: 3.01
BY DEFAULT

ID Number(s):
Location: 3102 W HWY 377, GRANBURY, TX, 76048
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: February 03, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 03, 2001 to February 03, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Bryan Elliott Phone: (512) 239-6162

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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 01/10/2006 (435545)
- 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LYNN TURNEY,
RN104812334

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-0121-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lynn Turney ("Mr. Turney") under the authority of TEX. WATER CODE ch. 7, and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Turney, appear before the Commission and together stipulate that:

1. Mr. Turney owns an unauthorized waste disposal Site at 3102 West Highway 377 in Grandbury, Hood County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TCEQ rules.
3. The Commission and Mr. Turney agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Turney is subject to the Commission's jurisdiction.
4. Mr. Turney received notice of the violations alleged in Section II ("Allegations") on or about January 16, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Turney of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of three thousand dollars (\$3,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Turney has paid three thousand dollars (\$3,000.00) of the administrative 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 of the TCEQ and Mr. Turney have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Turney transported all of the waste to an authorized municipal/industrial solid waste facility on or about January 5, February 15, and April 14, 2006.
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 Mr. Turney 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

Mr. Turney is alleged to have violated:

1. 30 TEX. ADMIN. CODE §§ 330.5(a) and 335.2(a) by failing to prevent the disposal of municipal solid waste and industrial solid waste at the Site. Specifically, it was documented that the Respondent disposed of at least 240 cubic yards of brush, construction-demolition waste, and debris from a former portable building manufacturing operation on personal property not authorized to accept the type of waste being disposed, as documented during inspections conducted on October 25 and October 26, 2005 by a TCEQ Dallas/Fort Worth Regional investigator.
2. 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to prevent any outdoor burning. Specifically, it was documented that the Respondent burned municipal solid waste and industrial solid waste at the Site, as documented during inspections conducted on October 25 and October 26, 2005 by a TCEQ Dallas/Fort Worth Regional investigator.

III. DENIALS

Mr. Turney generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Turney pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and Mr. Turney's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Lynn Turney, Docket No. 2006-0121-MLM-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon Mr. Turney. Mr. Turney is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Turney 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.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 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 the Order to Mr. Turney, or three days after the date on which the Commission mails notice of the Order to Mr. Turney, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Lynn Turney
DOCKET NO. 2006-0121-MLM-E
Page 4

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]

For the Executive Director

4/29/07

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 the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

[Handwritten Signature]

Signature

February 12, 2007

Date

Lynn Turney

Name (Printed or typed)

Property Owner

Title

Lynn Turney
DOCKET NO. 2006-0121-MLM-E
Page 4

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/17/07

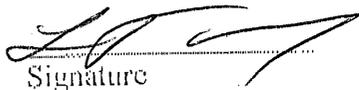
Date

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 the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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


Signature

February 12, 2007
Date

Lynn Turney
Name (Printed or typed)

Property Owner
Title