

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0249-MSW-E **TCEQ ID:** RN105116933 **CASE NO.:** 32634  
**RESPONDENT NAME:** El Paso Press/Box, Inc.

|   |  |   |
|---|--|---|
| <b>ORDER TYPE:</b>  |  |   |
| <input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>  | <input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>              | <input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>       |
| <input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>  | <input type="checkbox"/> <b>SHUTDOWN ORDER</b>                     | <input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b> |
| <input type="checkbox"/> <b>AMENDED ORDER</b>   | <input type="checkbox"/> <b>EMERGENCY ORDER</b>                    |   |
| <b>CASE TYPE:</b>   |  |   |
| <input type="checkbox"/> <b>AIR</b>   | <input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b> | <input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>              |
| <input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>   | <input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>            | <input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>                  |
| <input type="checkbox"/> <b>WATER QUALITY</b>   | <input type="checkbox"/> <b>SEWAGE SLUDGE</b>                      | <input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>               |
| <input checked="" type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>  | <input type="checkbox"/> <b>RADIOACTIVE WASTE</b>                  | <input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> El Paso Paper Box, 222 North Concepcion, El Paso, El Paso County</p> <p><b>TYPE OF OPERATION:</b> Commercial printing</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on November 8, 2006, alleging the unauthorized dumping of chemicals on the Respondent's property, adjacent to a stormwater canal. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 9, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468<br/> <b>Respondent:</b> Mr. Paul Malooly, President, El Paso Press/Box, Inc., 222 North Concepcion, El Paso, Texas 79905<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |  |   |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
|---|--|---|
| <p><b>Type of Investigation:</b><br/> <input checked="" type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> November 8, 2006</p> <p><b>Dates of Investigations Relating to this Case:</b> November 22 and 30, 2006</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 11, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation. One violation was documented.</p> <p><b>WASTE</b></p> <p>Failed to prevent the unauthorized discharge of municipal solid waste. Specifically, the investigator observed stained asphalt, soil and dead vegetation, covering an area of approximately 150 square feet, along the north property boundary adjacent to a stormwater canal. Stains were also noted on the concrete walls of the storm water canal and a strong solvent odor was detected from the stained area. Soil samples were collected at two contaminated locations near the northern boundary. The sample results indicated the following: bis(2-ethylhexyl)phthalate, 48.7 milligrams per kilogram ("mg/kg"), 1,2,4 trimethylbenzene, 1,110 mg/kg; 1,3,5 trimethylbenzene, 368 mg/kg, and total petroleum hydrocarbons 4,860 mg/kg. The chemical constituents found in the soil were also listed on the Material Safety Data Sheets ("MSDS") supplied by El Paso Press including 1,2,4 and 1,3,5-Trimethylbenzene and other petroleum distillates [30 TEX. ADMIN. CODE §§ 330.15(a)(1) and (c)].</p> | <p><b>Total Assessed:</b> \$7,500</p> <p><b>Total Deferred:</b> \$1,500<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$500 (remaining \$5,500 due in 11 monthly payments of \$500 each)</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease the discharge of any additional waste at the Facility;</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit for approval an Affected Property Assessment Report. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350, which may include: submitting plans, reports and notices under Subchapter E (30 TEX. ADMIN. CODE § 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p> |



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

|       |          |             |           |             |         |  |
|-------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 22-Jan-2007 | Screening | 12-Feb-2007 | EPA Due |  |
|       | PCW      | 19-Feb-2007 |           |             |         |  |

|  |                         |                    |       |
|--|-------------------------|--------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                         |                    |       |
| Respondent                             | El Paso Press/Box, Inc. |                    |       |
| Reg. Ent. Ref. No.                     | RN105116933             |                    |       |
| Facility/Site Region                   | 6-El Paso               | Major/Minor Source | Minor |

|                         |                       |                   |                   |          |
|-------------------------|-----------------------|-------------------|-------------------|----------|
| <b>CASE INFORMATION</b> |                       |                   |                   |          |
| Enf./Case ID No.        | 32634                 | No. of Violations | 1                 |          |
| Docket No.              | 2007-0249-MSW-E       | Order Type        | 1660              |          |
| Media Program(s)        | Municipal Solid Waste | Enf. Coordinator  | Michael Meyer     |          |
| Multi-Media             |                       | EC's Team         | EnforcementTeam 8 |          |
| Admin. Penalty \$       | Limit Minimum         | \$0               | Maximum           | \$10,000 |

## Penalty Calculation Section

|   |            |         |
|---|------------|---------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | Subtotal 1 | \$7,500 |
|---|------------|---------|

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

|                    |                |                     |     |
|--------------------|----------------|---------------------|-----|
| Compliance History | 0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|--------------------|----------------|---------------------|-----|

Notes: There were no Orders or NOV's which were issued to the Respondent during the previous five years.

|             |    |                |            |     |
|-------------|----|----------------|------------|-----|
| Culpability | No | 0% Enhancement | Subtotal 4 | \$0 |
|-------------|----|----------------|------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|                             |              |            |     |
|-----------------------------|--------------|------------|-----|
| Good Faith Effort to Comply | 0% Reduction | Subtotal 5 | \$0 |
|-----------------------------|--------------|------------|-----|

|               |            |                               |
|---------------|------------|-------------------------------|
|               | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary |            |                               |
| Ordinary      |            |                               |
| N/A           | X          | (mark with x)                 |

Notes: The Respondent does not meet the good faith criteria.

|                            |                 |                                   |     |
|----------------------------|-----------------|-----------------------------------|-----|
|                            | 0% Enhancement* | Subtotal 6                        | \$0 |
| Total EB Amounts           | \$553           | *Capped at the Total EB \$ Amount |     |
| Approx. Cost of Compliance | \$10,000        |                                   |     |

|                             |                |         |
|-----------------------------|----------------|---------|
| <b>SUM OF SUBTOTALS 1-7</b> | Final Subtotal | \$7,500 |
|-----------------------------|----------------|---------|

|   |            |     |
|---|------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | Adjustment | \$0 |
|---|------------|-----|

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

Notes:

|                      |         |
|----------------------|---------|
| Final Penalty Amount | \$7,500 |
|----------------------|---------|

|                                   |                        |         |
|-----------------------------------|------------------------|---------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | Final Assessed Penalty | \$7,500 |
|-----------------------------------|------------------------|---------|

|                 |               |            |         |
|-----------------|---------------|------------|---------|
| <b>DEFERRAL</b> | 20% Reduction | Adjustment | \$1,500 |
|-----------------|---------------|------------|---------|

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

Notes:

Deferral offered for expedited settlement.

|                        |         |
|------------------------|---------|
| <b>PAYABLE PENALTY</b> | \$6,000 |
|------------------------|---------|

Screening Date 12-Feb-2007

Docket No. 2007-0249-MSW-E

PCW

Respondent El Paso Press/Box, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32634

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN105116933

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

### 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 (number of NOVs meeting criteria)  | 0                 | 0%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 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 (number of judgements or consent decrees meeting criteria)                                       | 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 (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 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 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

There were no Orders or NOVs which were issued to the Respondent during the previous five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 12-Feb-2007

Docket No. 2007-0249-MSW-E

PCW

Respondent El Paso Press/Box, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32634

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN105116933

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 330.15(a)(1) and (c)

Violation Description

Failed to prevent the unauthorized discharge of municipal solid waste, as documented during investigations conducted on November 22 and 30, 2006. Specifically, the investigator observed stained asphalt, soil and dead vegetation, covering an area of approximately 150 square feet, along the north property boundary adjacent to a stormwater canal. Stains were also detected on the concrete walls of the storm water canal and a strong solvent odor was noted from the stained area. Soil samples were collected at two contaminated locations near the northern boundary. The sample results indicated the following: bis(2-ethylhexyl)phthalate, 48.7 milligrams per kilogram ("mg/kg"); 1,2,4 trimethylbenzene, 1,110 mg/kg; 1,3,5 trimethylbenzene, 368 mg/kg; and total petroleum hydrocarbons 4,860 mg/kg. The chemical constituents found in the soil were also listed on the Material Safety Data Sheets ("MSDS") supplied by the Respondent including 1,2,4 and 1,3,5-Trimethylbenzene, and other petroleum distillates.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       | x        |       |
| Potential |       |          |       |

Percent 25%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

83 Number of violation days

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        |   |
|                         | monthly      | x |
|                         | quarterly    |   |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event |   |

Violation Base Penalty \$7,500

Three monthly events are recommended from the November 22, 2006 investigation to the February 13, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$553

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

## Economic Benefit Worksheet

Respondent: El Paso Press/Box, Inc.  
 Case ID No.: 32634  
 Reg. Ent. Reference No.: RN105116933  
 Media: Municipal Solid Waste  
 Violation No.: 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost<br><small>No commas or \$</small> | 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     | \$10,000 | 22-Nov-2006 | 31-Dec-2007 | 1.1 | \$553 | n/a | \$553 |
| Permit Costs             |          |             |             | 0.0 | \$0   | n/a | \$0   |
| Other (as needed)        |          |             |             | 0.0 | \$0   | n/a | \$0   |

Notes for DELAYED costs: Estimated cost to prepare and submit an Affected Property Assessment Report ("APAR") including the cost of the site investigation and sampling plan. The Date Required is the date of the investigation and the Final Date is the projected date of compliance.

### Avoided Costs

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

|                               |   |  |  |     |     |     |     |
|-------------------------------|---|--|--|-----|-----|-----|-----|
| Disposal                      | if has been exposed to significant amounts of polluta |  |  | 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

\$10,000

5

TOTAL

\$553

## Compliance History

|   |   |                                       |                        |
|---|---|---------------------------------------|------------------------|
| Customer/Respondent/Owner-Operator:           | CN603125410 El Paso Press/Box, Inc.     | Classification: AVERAGE               | Rating: 3.01           |
| Regulated Entity:                             | RN105116933 EL PASO PAPER BOX           | Classification: AVERAGE<br>BY DEFAULT | Site Rating: 3.01      |
| ID Number(s):                                 |   |                                       |                        |
| Location:                                     | 222 N CONCEPCION ST, EL PASO, TX, 79905 | Rating Date: September 01 06          | Repeat Violator:<br>NO |
| TCEQ Region:                                  | REGION 06 - EL PASO                     |                                       |                        |
| Date Compliance History Prepared:             | February 23, 2007                       |                                       |                        |
| Agency Decision Requiring Compliance History: | Enforcement                             |                                       |                        |
| Compliance Period:                            | February 24, 2002 to February 23, 2007  |                                       |                        |

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

Name: Michael Meyer Phone: (512) 239-4492

### 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)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

### 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.)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 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  
EL PASO PRESS/BOX, INC.  
RN105116933**

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

**AGREED ORDER  
DOCKET NO. 2007-0249-MSW-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding El Paso Press/Box, Inc. ("El Paso Press") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and El Paso Press appear before the Commission and together stipulate that:

1. El Paso Press owns and operates a commercial printing business at 222 North Concepcion in El Paso, El Paso County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and El Paso Press agree that the Commission has jurisdiction to enter this Agreed Order, and that El Paso Press is subject to the Commission's jurisdiction.
4. El Paso Press received notice of the violations alleged in Section II ("Allegations") on or about January 16, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by El Paso Press of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Five Hundred Dollars (\$7,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). El Paso Press has paid Five Hundred Dollars (\$500) of the administrative penalty and One Thousand Five Hundred Dollars (\$1,500) is deferred contingent upon El Paso Press' 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 El Paso Press fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require El Paso Press to pay all or part of the deferred penalty.

The remaining amount of Five Thousand Five Hundred Dollars (\$5,500) of the administrative penalty shall be payable in 11 monthly payments of Five Hundred Dollars (\$500) each. The next monthly payment shall be paid not later than 30 days following the due date of the previous payment until paid in full. If El Paso Press fails to timely and satisfactorily comply with payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installment, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of El Paso Press to meet the payment of this Agreed Order constitutes the failure by El Paso Press to timely and satisfactorily comply with all the terms of this Agreed Order.

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 El Paso Press have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
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 El Paso Press has 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 owner and operator of the Facility, El Paso Press is alleged to have failed to prevent the unauthorized discharge of municipal solid waste, in violation of 30 TEX. ADMIN. CODE §§ 330.15(a)(1) and (c), as documented during investigations conducted on November 22 and 30, 2006. Specifically, the investigator observed stained asphalt, soil and dead vegetation, covering an area of approximately 150 square feet, along the north property boundary adjacent to a stormwater canal. Stains were also noted on the concrete walls of the storm water canal and a strong solvent odor was detected from the stained area. Soil samples were collected at two contaminated locations near the northern boundary. The sample results indicated the following: bis(2-ethylhexyl)phthalate, 48.7 milligrams per kilogram ("mg/kg"), 1,2,4 trimethylbenzene, 1,110 mg/kg; 1,3,5 trimethylbenzene, 368 mg/kg, and total petroleum hydrocarbons 4,860 mg/kg. The chemical constituents found in the soil were also listed on the Material Safety Data Sheets ("MSDS") supplied by El Paso Press including 1,2,4 and 1,3,5-Trimethylbenzene and other petroleum distillates.



### III. DENIALS

El Paso Press generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that El Paso Press pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and El Paso Press' 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: El Paso Press/Box, Inc., Docket No. 2007-0249-MSW-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. It is further ordered that El Paso Press shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, cease the discharge of any additional waste at the Facility;
  - b. Within 30 days after the effective date of this Agreed Order, submit for approval an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350, which may include: submitting plans, reports and notices under Subchapter E (30 TEX. ADMIN. CODE § 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F to:

Manager  
Environmental Cleanup, MC 221  
Remediation Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

With a copy to:

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



- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No(s). 2.a through 2.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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:

Waste Section Manager  
El Paso Regional Office  
Texas Commission on Environmental Quality  
401 East Franklin Avenue, Suite 560  
El Paso, Texas 79901-1206

3. The provisions of this Agreed Order shall apply to and be binding upon El Paso Press. El Paso Press 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.
4. If El Paso Press 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, El Paso Press' failure to comply is not a violation of this Agreed Order. El Paso Press shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. El Paso Press shall notify the Executive Director within seven days after El Paso Press becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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 El Paso Press shall be made



in writing to the Executive Director. Extensions are not effective until El Paso Press receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against El Paso Press 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to El Paso Press, or three days after the date on which the Commission mails notice of the Order to El Paso Press, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

8/23/2007  
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, 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

4/30/07  
Date

PAUL MARZOULY  
Name (Printed or typed)

PRESIDENT  
Title

Authorized Representative of  
El Paso Press/Box, Inc.

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

Very faint, illegible text at the top of the page, possibly a header or introductory paragraph.

Main body of very faint, illegible text, appearing to be several paragraphs of a document.

Large, illegible handwritten signatures or names at the bottom of the page, possibly indicating authorship or approval.