

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2005-1785-MSW-E TCEQ ID NO.: RN101921286 CASE NO.: 26948  
RESPONDENT NAME: DUVAL COUNTY**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input 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

**SITE WHERE VIOLATION(S) OCCURRED:** Approximately 2.25 miles northwest of the junction of State Highway 359 with State Highway 44, and 3,700 feet north of State Highway 44, Duval County

**TYPE OF OPERATION:** Type IV municipal solid waste facility

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on July 9, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Robert R. Mosley, Litigation Division, MC 175, (512) 239-0627;  
Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

**SEP Coordinator:** Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223

**TCEQ Enforcement Coordinator:** Mr. Michael Limos, Enforcement Division, MC 128, (512) 239-5839

**TCEQ Regional Contact:** Ms. Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 753-4052

**Respondent:** The Honorable Abel Aragon, County Judge, Duval County, P.O. Box 189, San Diego, Texas 78384

**Respondent's Attorney:** Not represented by counsel.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Dates of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigations Relating to this Case:</b> July 28, 2005</p> <p><b>Dates of NOV/NOEs Relating to this Case:</b> August 31, 2005 (NOE)</p> <p><b>Background Facts:</b> An EDPRP was filed on February 8, 2006. A signed Agreed Order was received on April 9, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>MSW:</b></p> <ol style="list-style-type: none"> <li>Failed to have a licensed supervisor for the Facility [30 TEX. ADMIN. CODE § 30.201].</li> <li>Failed to maintain a source of earthen material available to extinguish fires. Specifically, there were no stockpiles of firefighting earthen material in the work phase or active disposal areas [30 TEX. ADMIN. CODE § 330.115].</li> <li>Failed to prevent the unloading of waste in an unauthorized area. Specifically, a material composed of tar or a tar-like substance was disposed of on the landfill cover located on the south side of the Facility's permitted boundary [30 TEX. ADMIN. CODE § 330.117(b)].</li> <li>Failed to have large, heavy, or bulky items which cannot be incorporated in the regular spreading, compaction, and covering operation placed in the large-item salvage area. Specifically, there were three large piles of scrap metal approximately 70 yards west of the active work phase area [30 TEX. ADMIN. CODE § 330.124(a)].</li> <li>Failed to maintain the cover application record on site and readily available to TCEQ personnel [30 TEX. ADMIN. CODE § 330.133].</li> </ol>	<p><b>Total Assessed:</b> \$9,095</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$9,095</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p>The administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <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 Respondent shall implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, cease to cause, suffer, allow, or permit the disposal of waste in unauthorized areas of the landfill.</li> <li>Within 30 days:                     <ol style="list-style-type: none"> <li>Cause all large, heavy, and bulky items to be placed in a designated large-item salvage area;</li> <li>Develop and begin maintaining a source of earthen fire fighting material;</li> <li>Begin maintaining cover inspection records on site; and</li> <li>Remove and properly dispose of waste deposited in unauthorized areas.</li> </ol> </li> <li>Within 60 days, ensure that at least one individual who supervises or manages the operation of the Facility meets the qualifications for Municipal Solid Waste Facility Supervisors.</li> <li>Within 75 days, submit written certification and include detailed supporting documentation to demonstrate compliance.</li> </ol>

**Attachment A**  
**Docket Number: 2005-1785-MSW-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Duval County
<b>Penalty Amount:</b>	Nine Thousand Ninety-Five dollars (\$9,095)
<b>SEP Offset Amount:</b>	Nine Thousand Ninety-Five dollars (\$9,095)
<b>Type of SEP:</b>	Custom
<b>Location of SEP:</b>	Duval County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

Respondent shall conduct a three-day county-wide municipal solid waste collection and electronics waste recycling event and an illegal dumpsite clean up event. The solid waste clean up event must include collection of household municipal solid waste and tires and will not include disposal of household hazardous waste. The events will provide a local option to dispose of household municipal solid waste at no cost to the residents. The projects will target the low- to mid-income communities of Concepcion, San Jose, Rios, Ramirez and Realitos. Respondent shall conduct multiple events, if necessary to ensure that the amount of SEP offset is met.

Respondent shall ensure that the municipal solid waste collection and electronics recycling event:

- occurs during daylight hours;
- offers to the public convenient drop-off locations;
- involves the placement of trailers or collection bins where residents may dispose of wastes;
- is organized and conducted by County employees and contract labor;
- provides notification:
  - that household hazardous waste will not be accepted
  - of an alternative option for disposal of household hazardous waste
- advertises the notification in:
  - a newspaper of large circulation in the county
  - printed handouts located at City Hall, the County Courthouse, and other public facilities

Respondent shall ensure that the illegal dumpsite clean up:

- occurs during daylight hours;
- is organized and conducted by County employees;
- is conducted on properties for which a responsible party cannot be located or the owner does not have the financial resources to complete the cleanup; and
- complies with all local, state, and federal regulations

Respondent shall collect, transport, and dispose of or recycle the collected wastes. SEP monies will be used for heavy equipment including roll-off bins, trailers, overtime labor of employees, public announcement of the events, disposal fees, and other reasonable direct costs associated with conducting the events.

Respondent shall perform this project in accordance with all federal, state and local laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The recycling portion of the event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes (“CRT”) are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration and to divert the e-waste to environmentally sensitive recycling. This will save valuable landfill capacity and allow the recycler to re-utilize e-waste components, including CRTs.

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Removal of the illegal tire dumps will help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The cleanup will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

**2. Performance Schedule**

Respondent shall complete the project within one year after the effective date of this Agreed Order.

**3. Reporting**

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. Respondent shall thereafter submit a report quarterly, providing the progress to that date, a report of expenditures made, and a plan for completing the remaining portions of the project.

B. Final Report

Within 60 days after completion of the project, Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of tires, batteries, pounds of electronic waste;
5. Photographs of the project; and
6. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

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

**4. Additional Information and Access**

Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

**5. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount. Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

In the event of incomplete performance, Respondent shall include the docket number of this Agreed Order and a note with any payment, explaining that the payment is for a SEP reimbursement. The payment for any amount due shall be made out to the "Texas Commission on Environmental Quality" and mailed to:

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

**6. Publicity**

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

**7. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**8. Other SEPs by TCEQ or Other Agencies**

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



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	07-Sep-2005	Screening	15-Sep-2005	EPA Due	
	PCW	20-Jan-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Duval County		
Reg. Ent. Ref. No.	RN101921286		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>				
Enf./Case ID No.	26948	No. of Violations	5	
Docket No.	2005-1785-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Mike Limos	
Multi-Media		EC's Team	Enforcement Team 8	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$8,500

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

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

**Compliance History** 7% Enhancement Subtotals 2, 3, & 7 \$595

Notes: The site received one NOV with same or similar violations and one NOV for a dissimilar violation.

**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 a small x)

Notes: The Respondent is not yet in compliance.

**Economic Benefit** 0% Enhancement\* Subtotal 6 \$0

Total EB Amounts	\$474	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$11,225	

**SUM OF SUBTOTALS 1-7** Final Subtotal \$9,095

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment \$0

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

Notes:

**Final Penalty Amount** \$9,095

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$9,095

**DEFERRAL** 0% Reduction Adjustment \$0

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

Notes: No deferral is offered for non-expedited cases.

**PAYABLE PENALTY** \$9,095

**Screening Date** 15-Sep-2005 **Docket No.** 2005-1785-MSW-E **PCW**  
**Respondent** Duval County *Policy Revision 2 (September 2002)*  
**Case ID No.** 26948 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN101921286  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Mike Limos

**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>	1	5%
	Other written NOVs	1	2%
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)</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%
Other	<i>Please Enter Yes or No</i>		
	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** 15-Sep-2005

**Docket No.** 2005-1785-MSW-E

**PCW**

**Respondent** Duval County

*Policy Revision 2 (September 2002)*

**Case ID No.** 26948

*PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN101921286

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Mike Limos

**Violation Number**

**Primary Rule Cite(s)**

**Secondary Rule Cite(s)**

**Violation Description**

Failure to have large, heavy, or bulky items which cannot be incorporated in the regular spreading, compaction, and covering operation placed in the large-item salvage area, as documented during an investigation conducted on July 28, 2005. Specifically, 3 large piles of bulky scrap metal items were located outside the large-item salvage area in an area approximately 70 yards west of the active work phase area.

**Base Penalty**

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**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 Duval County  
 Case ID No. 26948  
 Reg. Ent. Reference No. RN101921286  
 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	Percent Interest	Years of Depreciation
						Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$300	28-Jul-2005	30-May-2006	0.8	\$13	n/a	\$13

Notes for DELAYED costs: Estimated cost expense for personnel and equipment to relocate scrap metal to the large-item salvage area, from the investigation date until the expected date of compliance.

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 **\$300** TOTAL **\$13**

**Screening Date** 15-Sep-2005

**Docket No.** 2005-1785-MSW-E

**PCW**

**Respondent** Duval County

*Policy Revision 2 (September 2002)*

**Case ID No.** 26948

*PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN101921286

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Mike Limos

**Violation Number**

**Primary Rule Cite(s)**

**Secondary Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

>> **Programmatic Matrix**

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

**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 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**

**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 Duval County  
 Case ID No. 26948  
 Reg. Ent. Reference No. RN101921286  
 Media [Statute] Municipal Solid Waste  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$5,000	28-Jul-2005	30-May-2006	0.8	\$210	n/a	\$210

Notes for DELAYED costs: Estimated cost to maintain fire fighting earthen material, from the investigation date until the expected date of compliance.

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 **\$5,000** TOTAL **\$210**

Screening Date 15-Sep-2005

Docket No. 2005-1785-MSW-E

PCW

Respondent Duval County

Policy Revision 2 (September 2002)

Case ID No. 26948

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101921286

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 330.133(g)

Secondary Rule Cite(s)

Violation Description Failure to maintain the cover inspection record on site and readily available to TCEQ personnel, as documented during an investigation conducted on July 28, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

One event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

### Economic Benefit Worksheet

Respondent Duval County  
 Case ID No. 26948  
 Reg. Ent. Reference No. RN101921286  
 Media [Statute] Municipal Solid Waste  
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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	\$200	28-Jul-2005	30-May-2006	0.8	\$8	n/a	\$8
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

Estimated cost to establish a record keeping system to maintain cover inspection records, from the investigation date until the expected date of compliance.

**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 **\$200**

**TOTAL \$8**

Screening Date 15-Sep-2005

Docket No. 2005-1785-MSW-E

PCW

Respondent Duval County

Policy Revision 2 (September 2002)

Case ID No. 26948

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101921286

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 30.201(c)

Secondary Rule Cite(s)

Violation Description Failure to have a licensed supervisor for the facility, as documented during an investigation conducted on July 28, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 2

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the investigation date of July 28, 2005 to the screening date of September 15, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$5,350

This violation Final Assessed Penalty (adjusted for limits) \$5,350

### Economic Benefit Worksheet

Respondent Duval County  
 Case ID No. 26948  
 Reg. Ent. Reference No. RN101921286  
 Media [Statute] Municipal Solid Waste  
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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	\$575	28-Jul-2005	29-Jun-2006	0.9	\$26	n/a	\$26
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$150	28-Jul-2005	29-Jun-2006	0.9	\$7	n/a	\$7

Notes for DELAYED costs: Estimated cost to train an individual and submit an application for a MSW Operator License, from the investigation date until the expected date of compliance.

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>					
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 **\$725**

**TOTAL \$33**

Screening Date 15-Sep-2005

Docket No. 2005-1785-MSW-E

PCW

Respondent Duval County

Policy Revision 2 (September 2002)

Case ID No. 26948

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101921286

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number 5

Primary Rule Cite(s) 30 Tex. Admin. Code § 330.117(b)

Secondary Rule Cite(s)

Violation Description

Failure to prevent the unloading of waste in an unauthorized area of the landfill, as documented during an investigation conducted on July 28, 2005. Specifically, a tar material was disposed on the landfill cover located on the south side of the facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date of July 28, 2005 to the screening date of September 15, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$210

Violation Final Penalty Total \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

### Economic Benefit Worksheet

Respondent Duval County  
 Case ID No. 26948  
 Reg. Ent. Reference No. RN101921286  
 Media [Statute] Municipal Solid Waste  
 Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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	\$5,000	28-Jul-2005	30-May-2006	0.8	\$210	n/a	\$210
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to remove and dispose of waste to an authorized area, from the investigation date until the expected date of compliance.

Item Description	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 **\$5,000**

**TOTAL** **\$210**

# Compliance History

Customer/Respondent/Owner-Operator:	CN600768907	Duval County	Classification:	Average	Rating:	2.19
Regulated Entity:	RN101921286	DUVAL COUNTY LANDFILL	Classification:	Average	Site Rating:	2.67
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL MUNICIPAL SOLID WASTE NON PERMITTED		PERMIT  ID NUMBER			1481  UNA455160010
Location:	2,25 miles northwest of the junction of State Highway 359 with State Highway 44, and 3,700 feet north of State Highway 44 in Duval County		Rating Date:	9/1/2005	Repeat Violator:	NO
TCEQ Region:	REGION 16 - LAREDO					
Date Compliance History Prepared:	October 24, 2005					
Agency Decision Requiring Compliance History:	Enforcement					
Compliance Period:	October 24, 2000 to October 24, 2005					
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History						
Name:	Steven Lopez	Phone:	(512) 239-1896			

## 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?   | N/A |
| 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 10/23/2003 (251883)<br>2 04/21/2004 (268396)<br>3 08/31/2005 (403993)<br>4 01/31/2005 (348758)<br>5 04/19/2004 (269000) |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.)  |   |

Date: 04/21/2004 (268396)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter F 330.117(c)  
Description: Failure to prevent the disposal of prohibited waste at an unauthorized disposal site.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 330, SubChapter F 330.120[G]  
Description: Failure to collect windblown material in a timely manner.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter F 330.133(f)  
Description: Failure to prevent erosion on the final cover of the landfill.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter F 330.133(g)  
Description: Failure to maintain a cover log.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 30, SubChapter F 30.201(c)  
Description: Failure to have a licensed supervisor manager by January 01, 2004.

Date: 04/16/2004 (269000)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)  
Description: Failure to register the site as a tire storage site.

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

30 TAC Chapter 330, SubChapter F 330.117(c)  
30 TAC Chapter 330, SubChapter F 330.120[G]  
30 TAC Chapter 330, SubChapter F 330.133(f)  
30 TAC Chapter 330, SubChapter F 330.133(g)  
30 TAC Chapter 30, SubChapter F 30.201(c)  
30 TAC Chapter 328, SubChapter F 328.60(a)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DUVAL COUNTY;  
RN101921286

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2005-1785-MSW-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 Duval County under the authority of TEX. WATER CODE chs. 7 and 37 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Duval County, appear before the Commission and together stipulate that:

1. Duval County owns and operates a type IV municipal solid waste facility located approximately 2.25 miles northwest of the junction of State Highway 359 with State Highway 44, and 3,700 feet north of State Highway 44, in Duval County, Texas (the "Facility").
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. WATER CODE ch. 37 and TEX. HEALTH & SAFETY CODE ch. 361 and the TCEQ rules.
3. The Commission and Duval County agree that the Commission has jurisdiction to enter this Agreed Order, and that Duval County is subject to the Commission's jurisdiction.
4. Duval County received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Duval County of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of nine thousand ninety-five dollars (\$9,095.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Duval County shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. Nine thousand ninety-five dollars (\$9,095.00) of the assessed administrative penalty shall be offset with the condition that Duval County implement the SEP defined in Attachment A, incorporated herein by reference. Duval County's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon fixed completion of all provisions of the SEP agreement.
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 Duval County 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 Duval County 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

Duval County is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 30.201, by failing to have a licensed supervisor for the Facility as documented on July 28, 2005.
2. 30 TEX. ADMIN. CODE § 330.115, by failing to maintain a source of earthen material available to extinguish fires. Specifically, there were no stockpiles of firefighting earthen material in the work phase or active disposal areas as documented on July 28, 2005.

3. 30 TEX. ADMIN. CODE § 330.117(b), by failing to prevent the unloading of waste in an unauthorized area. Specifically, a material composed of tar or a tar-like substance was disposed of on the landfill cover located on the south side of the Facility's permitted boundary as documented on July 28, 2005.
4. 30 TEX. ADMIN. CODE § 330.124(a), by failing to have large, heavy, or bulky items which cannot be incorporated in the regular spreading, compaction, and covering operation placed in the large-item salvage area. Specifically, there were three large piles of scrap metal approximately 70 yards west of the active work phase area as documented on July 28, 2005.
5. 30 TEX. ADMIN. CODE § 330.133, by failing to maintain the cover application record on site and readily available to TCEQ personnel as documented on July 28, 2005.

### III. DENIALS

Duval County generally denies each allegation in Section II ("Allegations").

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that Duval County pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Duval County'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: Duval County, Docket No. 2005-1785-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. Duval County shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. Nine thousand ninety-five dollars (\$9,095.00) of the assessed administrative penalty shall be offset with the condition that Premcor implement the SEP defined in Attachment A, incorporated herein by reference. Premcor's obligation to pay the conditionally offset portion

of the administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.

3. Duval County shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order, Duval County shall cease to cause, suffer, allow, or permit the disposal of waste in unauthorized areas of the landfill, in accordance with 30 TEX. ADMIN. CODE § 330.117(b).
- b. Within 30 days after the effective date of this Agreed Order, Duval County shall:
  - i. cause all large, heavy, and bulky items to be placed in a designated large-item salvage area, in accordance with 30 TEX. ADMIN. CODE § 330.124(a);
  - ii. develop and begin maintaining a source of earthen fire fighting material, in accordance with 30 TEX. ADMIN. CODE § 330.115;
  - iii. begin maintaining cover inspection records on site, in accordance with 30 TEX. ADMIN. CODE § 330.133(g); and *at site*
  - iv. remove and properly dispose of waste deposited in unauthorized areas, in accordance with 30 TEX. ADMIN. CODE § 330.117(b).
- c. Within 60 days after the effective date of this Agreed Order, Duval County shall ensure that at least one individual who supervises or manages the operation of the Facility meets the qualifications for Municipal Solid Waste Facility Supervisors contained in 30 TEX. ADMIN. CODE ch. 30, subchapter F, and holds a license in accordance with 30 TEX. ADMIN. CODE ch. 30, subchapter A, as required by 30 TEX. ADMIN. CODE § 30.201.
- d. Within 75 days after the effective date of this Agreed Order, Duval County shall submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.c. 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 149  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Rose Luna-Pirtle, Waste Section Manager  
Laredo Regional Office  
Texas Commission on Environmental Quality  
707 East Calton Road, Suite 304  
Laredo, Texas 78041-3638

4. The provisions of this Agreed Order shall apply to and be binding upon Duval County. Duval County is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Duval County 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, Duval County's failure to comply is not a violation of this Agreed Order. Duval County shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Duval County shall notify the Executive Director within seven days after Duval County becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Duval County shall be made in writing to the Executive Director. Extensions are not effective until Duval County receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Duval County 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 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.
9. 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 Duval County, or three days after the date on which the Commission mails notice of the Order to Duval County, 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

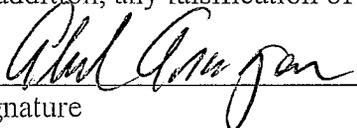
6/20/07  
Date

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

April 3, 2007  
Date

ABEL ARAGON  
Name (Printed or typed)  
Authorized representative of  
Duval County

DUVAL COUNTY JUDGE  
Title

Attachment A

Docket Number: 2005-1785-MSW-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Duval County
<b>Penalty Amount:</b>	Nine Thousand Ninety-Five dollars (\$9,095)
<b>SEP Offset Amount:</b>	Nine Thousand Ninety-Five dollars (\$9,095)
<b>Type of SEP:</b>	Custom
<b>Location of SEP:</b>	Duval County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

Respondent shall conduct a three-day county-wide municipal solid waste collection and electronics waste recycling event and an illegal dumpsite clean up event. The solid waste clean up event must include collection of household municipal solid waste and tires and will not include disposal of household hazardous waste. The events will provide a local option to dispose of household municipal solid waste at no cost to the residents. The projects will target the low- to mid-income communities of Concepcion, San Jose, Rios, Ramirez and Realitos. Respondent shall conduct multiple events, if necessary to ensure that the amount of SEP offset is met.

Respondent shall ensure that the municipal solid waste collection and electronics recycling event:

- occurs during daylight hours;
- offers to the public convenient drop-off locations;
- involves the placement of trailers or collection bins where residents may dispose of wastes;
- is organized and conducted by County employees and contract labor;
- provides notification:
  - that household hazardous waste will not be accepted
  - of an alternative option for disposal of household hazardous waste
- advertises the notification in:
  - a newspaper of large circulation in the county
  - printed handouts located at City Hall, the County Courthouse, and other public facilities

Respondent shall ensure that the illegal dumpsite clean up:

- occurs during daylight hours;
- is organized and conducted by County employees;
- is conducted on properties for which a responsible party cannot be located or the owner does not have the financial resources to complete the cleanup; and
- complies with all local, state, and federal regulations

Respondent shall collect, transport, and dispose of or recycle the collected wastes. SEP monies will be used for heavy equipment including roll-off bins, trailers, overtime labor of employees, public announcement of the events, disposal fees, and other reasonable direct costs associated with conducting the events.

Respondent shall perform this project in accordance with all federal, state and local laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The recycling portion of the event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes (“CRT”) are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration and to divert the e-waste to environmentally sensitive recycling. This will save valuable landfill capacity and allow the recycler to re-utilize e-waste components, including CRTs.

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Removal of the illegal tire dumps will help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The cleanup will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

**2. Performance Schedule**

Respondent shall complete the project within one year after the effective date of this Agreed Order.

**3. Reporting**

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. Respondent shall thereafter submit a report quarterly, providing the progress to that date, a report of expenditures made, and a plan for completing the remaining portions of the project.

B. Final Report

Within 60 days after completion of the project, Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of tires, batteries, pounds of electronic waste;
5. Photographs of the project; and
6. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

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

**4. Additional Information and Access**

Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

**5. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount. Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

In the event of incomplete performance, Respondent shall include the docket number of this Agreed Order and a note with any payment, explaining that the payment is for a SEP reimbursement. The payment for any amount due shall be made out to the "Texas Commission on Environmental Quality" and mailed to:

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

**6. Publicity**

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

**7. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**8. Other SEPs by TCEQ or Other Agencies**

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