

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0478-MSW-E **TCEQ ID:** RN102143054 **CASE NO.:** 29332

RESPONDENT NAME: City of Crockett

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input 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
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Crockett Transfer Station Facility, 400 West Durrett in Crockett, Houston County</p> <p>TYPE OF OPERATION: Recycling center/transfer station</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 3, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Mr. Colin Barth, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0086; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: The Honorable Wayne Mask, Mayor, City of Crockett, 200 North 5th Street, Crockett, Texas 75835 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 17, 2006</p> <p>Date of NOE Relating to this Case: April 27, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation. Five violations were documented.</p> <p>WASTE</p> <p>1) Failed to obtain a registration or other authorization from the TCEQ for a material recovery facility. Specifically, the Facility receives roll-off containers of construction debris, removes recyclable material, then repacks the containers with other waste prior to transporting to a landfill [30 TEX. ADMIN. CODE § 330.9(f) [formerly 30 TEX. ADMIN. CODE § 330.4(q)].</p> <p>2) Failed to comply with general requirements for composting facilities and comply with litter control. Specifically, the investigator observed litter, including plastic bags, on the ground surrounding the recycling center and mulching operations and litter blowing off site. Additionally, vegetative material was observed in plastic bags surrounding the transfer station area and pieces of plastic were observed along the edge of the stock piled vegetative material and the sump and screen area were full of grit and litter [30 TEX. ADMIN. CODE § 332.4(2) and § 330.233(a) [formerly 30 TEX. ADMIN. CODE § 330.120].</p> <p>3) Failed to comply with site operating plan. Specifically, the investigator observed the Facility was not operating in accordance with their site operating plan regarding the unloading of waste, hours of</p>	<p>Total Assessed: \$3,350</p> <p>Total Deferred: \$670 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,680</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that on April 4, 2006 the Respondent submitted documentation that the following corrective measures were implemented at the Facility:</p> <p>a. Cleaned litter on the ground in the transfer station area of the Facility and separated pallets and vegetable matter at the point of entry. Also, all traps and screens were cleaned and flushed by the water department and the sump and screen were washed down with a cleaner degreaser;</p> <p>b. Contaminated soil and storm water were removed from both oil disposal sites and properly disposed of; and</p> <p>c. A current copy of the City of Crockett's financial assurance is now included in the operating record at the Facility.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See Attachment A).</p> <p>3) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, cease to cause, suffer, allow, or permit the collection, handling, storage, processing or disposal of municipal solid waste until such time as a registration or other authorization is obtained, in accordance with 30 TEX. ADMIN. CODE § 330.9;</p> <p>b. Within 30 days after the effective date of this Agreed Order, clean all litter on the ground in the recycling and mulching areas of the Facility;</p> <p>c. Within 30 days after the effective date of this Agreed Order, amend or modify the site operating plan to reflect current activities; and</p>

<p>operation, large item disposal, salvaging, safety training, disposal, equipment, and capacity [30 TEX. ADMIN. CODE § 330.121(a) [formerly 30 TEX. ADMIN. CODE § 330.111(a)].</p> <p>4) Failed to maintain records for financial assurance. Specifically, the investigator observed that a copy of the financial assurance was not present at the transfer Facility [30 TEX. ADMIN. CODE § 330.125(b)(7) [formerly 30 TEX. ADMIN. CODE § 330.150(2)].</p> <p>5) Failed to comply with generator requirements for used oil. Specifically, the investigator observed used oil on the ground next to both the citizens used oil collection center and the used oil aggregation point used by the Respondent [30 TEX. ADMIN. CODE §§ 324.6 and 324.7 and 40 CODE OF FEDERAL REGULATIONS §§ 279.31(b)(1) and 279.32(b)].</p>		<p>d. Within 45 days after the effective date of this Agreed Order, submit written certification including detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.c.</p>
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Attachment A
Docket Number: 2006-0478-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Crockett
Penalty Amount: Two Thousand Six Hundred Eighty Dollars (\$2,680)
SEP Offset Amount: Two Thousand Six Hundred Eighty Dollars (\$2,680)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Houston County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the 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

The Respondent shall perform cleanups of at least two unauthorized dumpsites in Houston County. Eligible properties will be limited to those: 1) that are not owned by the Respondent; or 2) where a responsible party cannot be found or is unable to clean up the site; and 3) where reasonable efforts have been made to prevent the dumping.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The 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. The Respondent will only receive credit for employee labor to the extent that it is used on an overtime basis and can be documented. The Respondent will not receive credit for gratuities or inducements for volunteers.

The 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

This project will provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should the material catch fire.

C. Minimum Expenditure

The 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

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the project. The Respondent shall complete the project within 365 days after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the 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.

B. Final Report

Within 30 days after completion of the project, the 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, including employee timesheets signed by a supervisor if employee time is submitted for SEP credit;
3. A statement of quantifiable environmental benefits;
4. Map showing specific location of area(s) addressed;
5. Photographs of the project (before and after); and
6. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The 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

The 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. The 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 the 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.

In the event the Respondent does not complete the SEP, with the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due if the SEP is not completed shall be made out to "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 include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the 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 the 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

DATES	Assigned	01-May-2006	Screening	08-May-2006	EPA Due	
	PCW	09-May-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Crockett
Reg. Ent. Ref. No.	RN102143054
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29332	No. of Violations	4
Docket No.	2006-0478-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Colin Barth
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

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**

Notes

Culpability No

Notes

Good Faith Effort to Comply 0% Reduction **Subtotal 5**

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

Notes

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

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 20% Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 08-May-2006 **Docket No.** 2006-0478-MSW-E **PCW**
Respondent City of Crockett *Policy Revision 2 (September 2002)*
Case ID No. 29332 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102143054
Media [Statute] Municipal Solid Waste
Enf. Coordinator Colln Barth

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (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 (<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%
<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 The Respondent has no record of any previous Orders or NOVs at this site in the past five years.

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

Screening Date 08-May-2006 **Docket No.** 2006-0478-MSW-E **PCW**
Respondent City of Crockett *Policy Revision 2 (September 2002)*
Case ID No. 29332 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102143054
Media [Statute] Municipal Solid Waste
Enf. Coordinator Colin Barth
Violation Number 1
Primary Rule Cite(s) 30 Tex. Admin. Code § 330.9(f) [formerly 30 Tex. Admin. Code § 330.4(q)]
Secondary Rule Cite(s)

Violation Description Failure to obtain a registration or other authorization from the TCEQ for a material recovery facility as documented during an investigation conducted on February 17, 2006. Specifically, the facility receives roll-off containers of construction debris, removes recyclable material, then repacks the containers with other waste prior to transporting them to a landfill.

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

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the February 17, 2006 investigation date to the May 8, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$64

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent City of Crockett
 Case ID No. 29332
 Reg. Ent. Reference No. RN102143054
 Media [Statute] Municipal Solid Waste
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$1,520	17-Feb-2006	21-Dec-2006	0.8	\$64	n/a	\$64
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to register as a material recovery facility from the investigation date to the estimated 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 **\$1,520** TOTAL **\$64**

Screening Date 08-May-2006 **Docket No.** 2006-0478-MSW-E **PCW**
Respondent City of Crockett *Policy Revision 2 (September 2002)*
Case ID No. 29332 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102143054
Media [Statute] Municipal Solid Waste
Enf. Coordinator Colin Barth
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 checked="" type="checkbox"/>	Percent <input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<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 City of Crockett
Case ID No. 29332
Reg. Ent. Reference No. RN102143054
Media [Statute] Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	17-Feb-2006	21-Dec-2006	0.8	\$1	\$28	\$29
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	\$500	17-Feb-2006	04-Apr-2006	0.1	\$3	n/a	\$3
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs
 Under "Other", estimated cost to separate wooden pallets from other waste and clean up the litter surrounding the recycling center and mulching areas from the investigation date to the estimated date of compliance. Under "Remediation/Disposal", estimated cost to clean litter on the ground in transfer station area, from the investigation date to the 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

TOTAL

Screening Date 08-May-2006 **Docket No.** 2006-0478-MSW-E **PCW**
Respondent City of Crockett *Policy Revision 2 (September 2002)*
Case ID No. 29332 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102143054
Media [Statute] Municipal Solid Waste
Enf. Coordinator Colin Barth
Violation Number 3
Primary Rule Cite(s) 30 Tex. Admin. Code § 330.121(a) [formerly 30 Tex. Admin. Code § 330.111(a)]
Secondary Rule Cite(s)
Violation Description Failure to comply with site operating plan, as documented during an investigation conducted on February 17, 2006. Specifically, the investigator observed the facility was not operating in accordance with their site operating plan regarding the unloading of waste, hours of operation, large item disposal, salvaging, safety training, disposal, equipment, and capacity.

Base Penalty \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 10%
	Potential		X		

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants as a result of this 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 February 17, 2006 investigation date to the May 8, 2006 date of screening.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$59

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent City of Crockett
 Case ID No. 29332
 Reg. Ent. Reference No. RN102143054
 Media [Statute] Municipal Solid Waste
 Violation No. 3

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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	17-Feb-2006	21-Dec-2006	0.8	\$3	\$56	\$59
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost for the facility to update and submit modifications for approval of current site operating plan. Date Required is investigation date, Final Date is estimated 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 **\$1,000** TOTAL **\$59**

Screening Date 08-May-2006 **Docket No.** 2006-0478-MSW-E **PCW**
Respondent City of Crockett *Policy Revision 2 (September 2002)*
Case ID No. 29332 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102143054
Media [Statute] Municipal Solid Waste
Enf. Coordinator Colin Barth
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"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

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 City of Crockett
 Case ID No. 29332
 Reg. Ent. Reference No. RN102143054
 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
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	\$100	17-Feb-2006	04-Apr-2006	0.1	\$1	n/a	\$1
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 and maintain a record keeping system for the financial assurance documents. Date Required is the investigation date, Final Date is date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance TOTAL



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	01-May-2006	Screening	08-May-2006	EPA Due	
	PCW	09-May-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Crockett
Reg. Ent. Ref. No.	RN102143054
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29332	No. of Violations	1
Docket No.	2006-0478-MSW-E	Order Type	1660
Media Program(s)	Used Oil	Enf. Coordinator	Colin Barth
Multi-Media		EC's Team	Enforcement Team 8
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

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

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$3"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$500"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 08-May-2006 **Docket No.** 2006-0478-MSW-E **PCW**
Respondent City of Crockett *Policy Revision 2 (September 2002)*
Case ID No. 29332 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102143054
Media [Statute] Used Oil
Enf. Coordinator Colin Barth

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (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 (<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%
<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 The Respondent has no record of any previous Orders or NOVs at this site in the past five years.

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

Screening Date 08-May-2006 **Docket No.** 2006-0478-MSW-E **PCW**
Respondent City of Crockett *Policy Revision 2 (September 2002)*
Case ID No. 29332 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102143054
Media [Statute] Used Oil
Enf. Coordinator Colin Barth
Violation Number 1
Primary Rule Cite(s) 30 Tex. Admin. Code §§ 324.6 and 324.7
Secondary Rule Cite(s) 40 Code of Federal Regulations §§ 279.31(b)(1) and 279.32(b)
Violation Description Failure to comply with generator requirements for used oil, as documented during an investigation conducted on February 17, 2006. Specifically, the investigator observed used oil on the ground next to both the citizens' used oil collection center and the used oil aggregation point used by the City of Crockett.
Base Penalty \$2,500

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual			X	Percent 10%
	Potential				

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
						Percent
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.					

Adjustment -\$2,250

Base Penalty Subtotal \$250

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 \$250

One quarterly event is recommended from the February 17, 2006 investigation date to the April 4, 2006 date of compliance.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

Economic Benefit Worksheet

Respondent City of Crockett
 Case ID No. 29332
 Reg. Ent. Reference No. RN102143054
 Media [Statute] Used Oil
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$500	17-Feb-2006	04-Apr-2006	0.1	\$3	n/a	\$3
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to properly clean and dispose of used oil stained soil from the investigation date to the 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 **\$500** TOTAL **\$3**

Compliance History

Customer/Respondent/Owner-Operator:	CN600251870	City of Crockett	Classification: AVERAGE	Rating: 1.97
Regulated Entity:	RN102143054	CITY OF CROCKETT TRANSFER STATION FACILITY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION		40114
	MUNICIPAL SOLID WASTE PROCESSING	REGISTRATION		42025
	AIR QUALITY NON PERMITTED	ACCOUNT NUMBER		00000
	USED OIL	ID NUMBER		C81335
Location:	400 W DURRETT, CROCKETT, TX, 75835		Rating Date: 9/1/2005	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	May 01, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 01, 2001 to May 01, 2006			

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

Name: Colin Barth Phone: 512-239-0086

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.)
N/A 1 04/27/2006 (454215)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF CROCKETT
RN102143054**

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

AGREED ORDER DOCKET NO. 2006-0478-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 the City of Crockett ("the City") under the authority of the TEX. HEALTH & SAFETY CODE chs. 361 and 371, and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a recycling center/transfer station which includes material recovery operations at 400 West Durrett in Crockett, Houston County, Texas (the "Facility").
2. The Facility involves the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about May 2, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Three Hundred Fifty Dollars (\$3,350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Six Hundred Seventy Dollars (\$670) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full

compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Two Thousand Six Hundred Eighty Dollars (\$2,680) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

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 the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on April 4, 2006 the City submitted documentation that the following corrective measures were implemented at the Facility:
 - a. Cleaned litter on the ground in the transfer station area of the Facility and separated pallets and vegetable matter at the point of entry. Also, all traps and screens were cleaned and flushed by the water department and the sump and screen were washed down with a cleaner degreaser;
 - b. Contaminated soil and storm water were removed from both oil disposal sites and properly disposed of; and
 - c. A current copy of the City's financial assurance is now included in the operating record at the Facility.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to obtain a registration or other authorization from the TCEQ for a material recovery facility, in violation of 30 TEX. ADMIN. CODE § 330.9(f) [formerly 30 TEX. ADMIN. CODE § 330.4(q)], as documented during an investigation conducted on February 17, 2006. Specifically, the Facility receives roll-off containers of construction debris, removes recyclable material, then repacks the containers with other waste prior to transporting to a landfill.
2. Failed to comply with general requirements for composting facilities and comply with litter control, in violation of 30 TEX. ADMIN. CODE § 332.4(2) and § 330.233(a) [formerly 30 TEX. ADMIN. CODE § 330.120], as documented during an investigation conducted on February 17, 2006. Specifically, the investigator observed litter, including plastic bags, on the ground surrounding the recycling center and mulching operations and litter blowing off site. Additionally, vegetative material was observed in plastic bags surrounding the transfer station area and pieces of plastic were observed along the edge of the stock piled vegetative material and the sump and screen area were full of grit and litter.
3. Failed to comply with site operating plan, in violation of 30 TEX. ADMIN. CODE § 330.121(a) [formerly 30 TEX. ADMIN. CODE § 330.111(a)], as documented during an investigation conducted on February 17, 2006. Specifically, the investigator observed the Facility was not operating in accordance with their site operating plan regarding the unloading of waste, hours of operation, large item disposal, salvaging, safety training, disposal, equipment, and capacity.
4. Failed to maintain records for financial assurance, in violation of 30 TEX. ADMIN. CODE § 330.125(b)(7) [formerly 30 TEX. ADMIN. CODE § 330.150(2)], as documented during an investigation conducted on February 17, 2006. Specifically, the investigator observed that a copy of the financial assurance was not present at the transfer Facility.
5. Failed to comply with generator requirements for used oil, in violation of 30 TEX. ADMIN. CODE §§ 324.6 and 324.7 and 40 CODE OF FEDERAL REGULATIONS §§ 279.31(b)(1) and 279.32(b) as documented during an investigation conducted on February 17, 2006. Specifically, the investigator observed used oil on the ground next to both the citizens used oil collection center and the used oil aggregation point used by the City.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or

penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Crockett, Docket No. 2006-0478-MWS-E" to:

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

2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Six Hundred Eighty Dollars (\$2,680) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, cease to cause, suffer, allow, or permit the collection, handling, storage, processing or disposal of municipal solid waste until such time as a registration or other authorization is obtained, in accordance with 30 TEX. ADMIN. CODE § 330.9;
 - b. Within 30 days after the effective date of this Agreed Order, clean all litter on the ground in the recycling and mulching areas of the Facility;
 - c. Within 30 days after the effective date of this Agreed Order, amend or modify the site operating plan to reflect current activities; and
 - d. 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 Nos. 2a. through 2c.

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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703

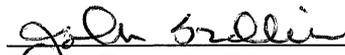
4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the City 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), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, 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

9/16/07

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

06/27/07

Date

Wayne Mark

Name (Printed or typed)
Authorized Representative of
City of Crockett

Mayor

Title

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.

Attachment A
Docket Number: 2006-0478-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Crockett
Penalty Amount: Two Thousand Six Hundred Eighty Dollars (\$2,680)
SEP Offset Amount: Two Thousand Six Hundred Eighty Dollars (\$2,680)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Houston County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the 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

The Respondent shall perform cleanups of at least two unauthorized dumpsites in Houston County. Eligible properties will be limited to those: 1) that are not owned by the Respondent; or 2) where a responsible party cannot be found or is unable to clean up the site; and 3) where reasonable efforts have been made to prevent the dumping.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The 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. The Respondent will only receive credit for employee labor to the extent that it is used on an overtime basis and can be documented. The Respondent will not receive credit for gratuities or inducements for volunteers.

The 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

This project will provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should the material catch fire.

C. Minimum Expenditure

The 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

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the project. The Respondent shall complete the project within 365 days after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the 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.

B. Final Report

Within 30 days after completion of the project, the 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, including employee timesheets signed by a supervisor if employee time is submitted for SEP credit;
3. A statement of quantifiable environmental benefits;
4. Map showing specific location of area(s) addressed;
5. Photographs of the project (before and after); and
6. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The 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

The 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. The 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 the 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.

In the event the Respondent does not complete the SEP, with the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due if the SEP is not completed shall be made out to “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 include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the “Clean Texas” (or any successor) program. Similarly, the 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 the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.

