EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0709-MLM-E **TCEQ ID:** RN105128342 **CASE NO.:** 33481

RESPONDENT NAME: Billy Hilton

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
X AIR	X MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
X MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 835 Ridgecliff Drive, New Braunfels, Guadalupe County

TYPE OF OPERATION: Unauthorized disposal site

SMALL BUSINESS: ___ Yes X No

OTHER SIGNIFICANT MATTERS: A complaint was received September 15, 2006, alleging that the Respondent dumped unauthorized waste (municipal solid waste) on private property. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed the desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on September 3, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Dana Shuler, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2505; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468

Respondent: Mr. Billy Hilton, Owner, 835 Ridgecliff Drive, New Braunfels, Texas 78130

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: _X_ Complaint ___ Routine ___ Enforcement Follow-up ___ Records Review **Date(s) of Complaints Relating to this Case:** September 15, 2006 **Date of Investigation Relating to this Case:** December 15, 2006 **Date of NOE Relating to this Case:** April 2, 2007 (NOE) **Background Facts:** This was a complaint investigation. Two violations were documented. **AIR/WATER/WASTE** 1) Failure to prevent the disposal of municipal solid waste at an unauthorized site. Specifically, several bags of cement and wooden pallets, tires, and other solid waste, less than 500 cubic yards in total, had been disposed of throughout the Site. Additionally, some waste had been disposed of on the banks and in the creek that runs through the Site [30 TEX. ADMIN. CODE § 330.15(c) and TEX. WATER CODE § 26.121(a)(1)]. 2) Failure to comply with the general prohibition on outdoor burning. Specifically, approximately 3 to 4 cubic yards of waste, including wooden pallets, plastic wrapping, canvas bags, and insulation, had been burned at the Site [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH AND SAFETY CODE § 382.085(b)].	**Total Assessed:** $6,000 **Total Deferred:** $1,200 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $145 (the remaining $4,655 to be paid in 35 monthly payments of $133 each) **Site Compliance History Classification** __ **High** ___ **Average** __ **Poor** **Person Compliance History Classification** __ **High** ___ **Average** __ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Immediately upon the effective date of this Agreed Order, cease all unauthorized burning of waste materials at the Site; b. Immediately upon the effective date of this Agreed Order, cease disposing any additional waste at the Site; c. Within 30 days after the effective date of this Agreed Order, remove all waste materials from the Site and dispose of the waste at an authorized facility; and 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 Provisions a. through c.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision January 9, 2007*

TCEQ

DATES					
Assigned	9-Apr-2007				
PCW	14-May-2007	Screening	11-May-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Billy Hilton		
Reg. Ent. Ref. No.	RN105128342		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33481	No. of Violations	2
Docket No.	2007-0709-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Dana Shuler
Multi-Media	Air Quality	EC's Team	EnforcementTeam 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$6,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 0% Enhancement — *Subtotals 2, 3, & 7* **$0**

Notes: The Respondent has not received any NOVs or Orders for this site within the past five years.

Culpability — No — 0% Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

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

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

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

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$316
Approx. Cost of Compliance	$5,052

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$6,000**

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 **$6,000**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$6,000**

DEFERRAL — 20% Reduction — *Adjustment* **-$1,200**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$4,800**

Screening Date	11-May-2007	**Docket No.** 2007-0709-MLM-E	**PCW**
Respondent	Billy Hilton		*Policy Revision 2 (September 2002)*
Case ID No.	33481		*PCW Revision January 9, 2007*
Reg. Ent. Reference No.	RN105128342		
Media [Statute]	Municipal Solid Waste		
Enf. Coordinator	Dana Shuler		

Compliance History Worksheet

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

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
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)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has not received any NOVs or Orders for this site within the past five years.

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

Screening Date	11-May-2007	**Docket No.** 2007-0709-MLM-E	**PCW**
Respondent	Billy Hilton		*Policy Revision 2 (September 2002)*
Case ID No.	33481		*PCW Revision January 9, 2007*
Reg. Ent. Reference No.	RN105128342		
Media [Statute]	Municipal Solid Waste		
Enf. Coordinator	Dana Shuler		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c) and Tex. Water Code § 26.121(a)(1)

Violation Description Failed to prevent the disposal of municipal solid waste at an unauthorized site, as documented during an investigation conducted on December 15, 2006. Specifically, several bags of cement and wooden pallets, tires, and other solid waste, less than 500 cubic yards in total, had been disposed of throughout the Site. Additionally, some waste had been disposed of on the banks and in the creek that runs through the Site.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

OR

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 2

147 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $5,000

Two quarterly events are recommended from the December 15, 2006 investigation date to the May 11, 2007 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $264

Statutory Limit Test

Violation Final Penalty Total $5,000

This violation Final Assessed Penalty (adjusted for limits) $5,000

Economic Benefit Worksheet

Respondent Billy Hilton
Case ID No. 33481
Reg. Ent. Reference No. RN105128342
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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	$5,000	15-Dec-2006	4-Jan-2008	1.1	$264	n/a	$264
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to dispose of the waste at an authorized 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 $5,000

TOTAL $264

Screening Date	11-May-2007	**Docket No.** 2007-0709-MLM-E	**PCW**
Respondent	Billy Hilton		*Policy Revision 2 (September 2002)*
Case ID No.	33481		*PCW Revision January 9, 2007*
Reg. Ent. Reference No.	RN105128342		
Media [Statute]	Municipal Solid Waste		
Enf. Coordinator	Dana Shuler		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health and Safety Code § 382.085(b)

Violation Description Failed to comply with the general prohibition on outdoor burning, as documented during an investigation conducted on December 15, 2006. Specifically, approximately 3 to 4 cubic yards of waste, including wooden pallets, plastic wrapping, canvas bags, and insulation, had been burned at the Site.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $52

Statutory Limit Test

Violation Final Penalty Total $1,000

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

Economic Benefit Worksheet

Respondent Billy Hilton
Case ID No. 33481
Reg. Ent. Reference No. RN105128342
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
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]	$52	15-Dec-2006	15-Dec-2006	0.0	$0	$52	$52
Other (as needed)				0.0	$0	$0	$0

Notes for DELAYED costs

Notes for AVOIDED costs Estimated cost to properly dispose of the volume of waste that was disposed of by burning based on $13 per cubic yard and four cubic yards of waste.

Approx. Cost of Compliance $52

TOTAL $52

Compliance History

Customer/Respondent/Owner-Operator:	CN603131897	HILTON, BILLY	Classification:	Rating:
Regulated Entity:	RN105128342	835 RIDGE CLIFF DR	Classification:	Site Rating:

ID Number(s):

Location: 835 RIDGECLIFF DR, NEW BRAUNFELS, TX, 78130

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: April 30, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 30, 2002 to April 30, 2007

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

Name: Alison Echlin Phone: 512-239-3308

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

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
BILLY HILTON	§	
RN105128342	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0709-MLM-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 Billy Hilton ("Mr. Hilton") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Hilton appear before the Commission and together stipulate that:

1. Mr. Hilton owns property that includes an unauthorized disposal site located at 835 Ridgecliff Drive in New Braunfels, Guadalupe County, Texas (the "Site").

2. The Site involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361 and consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Mr. Hilton agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Hilton is subject to the Commission's jurisdiction.

4. Mr. Hilton received notice of the violations alleged in Section II ("Allegations") on or about April 7, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Hilton of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Six Thousand Dollars ($6,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Hilton has paid One Hundred Forty-Five Dollars ($145) of the administrative penalty and One Thousand

Two Hundred Dollars ($1,200) is deferred contingent upon Mr. Hilton's timely and satisfactory compliance with all the terms of this Agreed Order. If Mr. Hilton fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Hilton to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Six Hundred Fifty-Five Dollars ($4,655) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Thirty-Three Dollars ($133) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Hilton fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Hilton to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Hilton to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Mr. Hilton 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 Mr. Hilton has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, Mr. Hilton is alleged to have:

1. Failed to prevent the disposal of municipal solid waste at an unauthorized site, in violation of 30 TEX. ADMIN. CODE § 330.15(c) and TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on December 15, 2006. Specifically, several bags of cement and wooden pallets, tires, and other solid waste, less than 500 cubic yards in total, had been disposed of throughout the Site. Additionally, some waste had been disposed of on the banks and in the creek that runs through the Site.

2. Failed to comply with the general prohibition on outdoor burning, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH AND SAFETY CODE § 382.085(b), as documented during an

investigation conducted on December 15, 2006. Specifically, approximately 3 to 4 cubic yards of waste, including wooden pallets, plastic wrapping, canvas bags, and insulation, had been burned at the Site.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Hilton pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Hilton'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: Billy Hilton, Docket No. 2007-0709-MLM-E" to:

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

2. It is further ordered that Mr. Hilton shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order, cease all unauthorized burning of waste materials at the Site;

   b. Immediately upon the effective date of this Agreed Order, cease disposing any additional waste at the Site;

   c. Within 30 days after the effective date of this Agreed Order, remove all waste materials from the Site and dispose of the waste at an authorized facility; 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 No(s). 2.a. through 2.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 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Hilton. Mr. Hilton is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

4. If Mr. Hilton 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, Mr. Hilton's failure to comply is not a violation of this Agreed Order. Mr. Hilton shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Hilton shall notify the Executive Director within seven days after Mr. Hilton becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Hilton shall be made in writing to the Executive Director. Extensions are not effective until Mr. Hilton receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Hilton in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Hilton, or three days after the date on which the Commission mails notice of the Order to Mr. Hilton, 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

_____ 9/7/07
For the Executive Director 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.

_____ 6-19-07
Signature Date

BILLY H. HILTON Owner
Name (Printed or typed) Title
Authorized Representative of
Billy Hilton

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.