

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-1764-MSW-E TCEQ ID NO.: RN104713078 CASE NO.: 27031
RESPONDENT NAME: WAYNE BAGLEY

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: 1.2 miles north of US Hwy 79 off Country Road 301 east of Carthage, Panola County

TYPE OF OPERATION: Municipal solid waste

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There was one complaint. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: The complainant has not expressed interest in speaking at agenda. 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 December 4, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, MC 128, (512) 239-4492

TCEQ Regional Contact: Mr. Charles McReynolds, Tyler Regional Office, MC R-5, (903) 535-5154

Respondent: Mr. Wayne Bagley, Owner, P.O. Box 353, Carthage, TX 75633

Respondent's Attorney: Not represented by counsel.

**RESPONDENT'S NAME: WAYNE BAGLEY
DOCKET NO.: 2005-1764-MSW-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: July 15, 2005</p> <p>Date(s) of Investigation(s) Relating to this Case: August 2, 2005</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: August 25, 2005 (NOE)</p> <p>Background Facts:</p> <p>The Agreed Order was signed on February 6, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MSW</p> <p>Failed to prohibit solid waste discharges or activities which caused municipal solid waste to be discharged into or adjacent to waters in the state without obtaining specific authorization for such a discharge from the Commission, as documented during an investigation [30 TEX. ADMIN. CODE § 330.5(c)].</p>	<p>Total Assessed: \$7,500</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$360/\$7,140</p> <p>The Respondent has paid \$360 of the administrative penalty. The remaining amount of \$7,140 of the administrative penalty shall be payable in 34 monthly payments of \$210 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <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>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Cease disposing of any additional waste at the Facility. 2. Within 120 days, remove all waste materials, including materials buried on-site, and dispose of the wastes at an authorized facility. 3. Within 135 days, submit written certification and include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance.

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005

TCEQ	DATES	Assigned 29-Aug-2005	Screening 11-Oct-2005	EPA Due
	PCW	02-Feb-2006		

RESPONDENT/FACILITY INFORMATION	
Respondent	Wayne Bagley
Reg. Ent. Ref. No.	RN104713078
Facility/Site Region	5-Tyler <input type="checkbox"/> Major/Minor Source <input type="checkbox"/> Minor Source

CASE INFORMATION			
Enf./Case ID No.	27031	No. of Violations	1
Docket No.	2005-1764-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Michael Meyer
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	\$7,500
---	-------------------	----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: No orders or NOV's have been issued to the Respondent in the past five years.

Culpability	No <input type="checkbox"/>	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 EDRP/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	\$2,077	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$40,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,500
-----------------------------	-----------------------	----------------

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	\$7,500
-----------------------------	----------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,500
-----------------------------------	-------------------------------	----------------

DEFERRAL		Reduction	Adjustment	\$0
-----------------	--	------------------	-------------------	------------

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$7,500
------------------------	----------------

Screening Date 11-Oct-2005 **Docket No.** 2005-1764-MSW-E **PCW**
Respondent Wayne Bagley *Policy Revision 2 (September 2002)*
Case ID No. 27031 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN104713078
Media [Statute] Municipal Solid Waste
Enf. Coordinator Michael Meyer

Compliance History Worksheet

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

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

No orders or NOVs have been issued to the Respondent in the past five years.

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

Screening Date 11-Oct-2005	Docket No. 2005-1764-MSW-E	PCW
Respondent Wayne Bagley	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 27031	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN104713078		
Media [Statute] Municipal Solid Waste		
Enf. Coordinator Michael Meyer		
Violation Number <input type="text" value="1"/>		
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code 330.5(c)"/>	
Secondary Rule Cite(s)	<input type="text"/>	
Violation Description	<p>Failure to prohibit solid waste discharges or activities which cause municipal solid waste to be discharged without obtaining specific authorization for such a discharge from the Commission, as documented during a investigation conducted on August 2, 2005. Specifically, the investigators observed that approximately 2,000 scrap tires and various types of construction and demolition wastes, wooden pallets, PVC pipe, wire, sheet tin roofing, used carpet, old furniture, plastic fencing, and various other types of municipal solid waste had been disposed in a sand and gravel pit.</p>	
Base Penalty		<input type="text" value="\$10,000"/>

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

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	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 type="text"/>	Percent <input type="text"/>

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

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 checked="" type="text" value="X"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input type="text"/>

Violation Base Penalty

Three monthly events are recommended from the date of the August 2, 2005 investigation to the date of screening (October 11, 2005).

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$2,077"/>	Violation Final Penalty Total <input type="text" value="\$7,500"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$7,500"/>	

Economic Benefit Worksheet

Respondent: Wayne Bagley
Case ID No.: 27031
Reg. Ent. Reference No.: RN104713078
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	\$40,000	02-Aug-2005	16-Aug-2006	1.0	\$2,077	n/a	\$2,077
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost of disposing of the waste at an authorized landfill. The estimate is based on the volume of the material buried (approximately 8,000 cubic yards) multiplied times an estimate of 0.25 tons per cubic yard for loosely compacted construction material which amounts to approximately 2,000 tons of waste multiplied times the cost of disposal estimate of \$20 per ton. The Date Required is the date of the August 2, 2005 investigation and the Final Date is 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 \$40,000

TOTAL \$2,077

Compliance History

Customer/Respondent/Owner-Operator: CN602885915 BAGLEY, WAYNE Classification: AVERAGE Rating: 3.010
Regulated Entity: RN104713078 BAGLEY WAYNE Classification: AVERAGE BY DEFAULT Site Rating: 3.01
ID Number(s):
Location: 1.2 miles north of US Highway 79 off County Road 301 east of Carthage, Panola County Rating Date: 9/1/05 Repeat Violator: NO
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: November 01, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 07, 2000 to October 07, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Michael Meyer Phone: (512) 239-4492

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? 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
6. Comments:

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.)
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
WAYNE BAGLEY;
RN104713078**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2005-1764-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 Wayne Bagley ("Mr. Bagley") under the authority of TEX. WATER CODE ch.7, TEX. HEALTH & SAFETY CODE ch. 361 and 30 TEX. ADMIN. CODE chs. 70 and 330. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Bagley appear before the Commission and together stipulate that:

1. Mr. Bagley owns property located approximately 1.2 miles north of US Highway 79 off Country Road 301 east of Carthage, Panola County, Texas (the "Facility"). The Facility involves the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Mr. Bagley agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Bagley is subject to the Commission's jurisdiction.
4. Mr. Bagley received notice of the violations alleged in Section II ("Allegations") on or about August 30, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Bagley of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Bagley has paid three hundred sixty dollars (\$360.00) of the administrative penalty. The remaining amount of seven thousand one hundred forty dollars (\$7,140.00) of the administrative penalty shall be payable in 34 monthly payments of two hundred ten dollars (\$210.00) 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. Bagley fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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. Bagley to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Bagley to timely and satisfactorily comply with all of 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. Bagley 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. Bagley 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

It is alleged that Mr. Bagley violated 30 TEX. ADMIN. CODE § 330.5(c) by failing to prohibit solid waste discharges or activities which caused municipal solid waste to be discharged into or adjacent to waters in the state without obtaining specific authorization for such a discharge from the Commission. Specifically, during an inspection conducted on August 2, 2005, the investigator observed approximately 2,000 scrap tires and various types of construction and demolition wastes,

wooden pallets, PVC pipe, wire sheet tin roofing, used carpet, old furniture, plastic fencing, and various types of municipal solid waste had been disposed of in a sand and gravel pit at the Facility.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Bagley pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Bagley'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: Wayne Bagley, Docket No. 2005-1764-MSW-E." to:

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

2. It is further ordered that Mr. Bagley shall undertake the following technical requirements:
 - a. Immediately upon the effective date of the Agreed Order, Mr. Bagley shall cease disposing of any additional waste at the Facility.
 - b. Within 120 days after the effective date of the Agreed Order, Mr. Bagley shall remove all waste materials, including materials buried on-site, and dispose of the wastes at an authorized facility.
 - c. Within 135 days after the effective date of this Agreed Order, Mr. Bagley shall 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. and b.

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

"I certify under penalty of law that 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 149
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Michael Brashear, Waste Section Manager
Texas Commission on Environmental Quality
Tyler Regional Office
2916 Teague Drive
Austin, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Bagley. Mr. Bagley is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mr. Bagley 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. Bagley's failure to comply is not a violation of this Agreed Order. Mr. Bagley shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Bagley shall notify the Executive Director within seven days after Mr. Bagley 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. Bagley shall be made in writing to the Executive Director. Extensions are not effective until Mr. Bagley

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. Bagley 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Bagley, or three days after the date on which the Commission mails notice of the Order to Mr. Bagley, 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

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.

Wayne Bagley
Signature

2-06-07
Date

WAYNE Bagley
Name (Printed or typed)
Authorized representative of Wayne Bagley

Land owner
Title