

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NUMBER: 2005-2067-MLM-E TCEQ ID NO: RN104789235 ENF ID: 28533

RESPONDENT NAME: SENTINEL REFUSE, LLC

ORDER TYPE:

<input 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 checked="" 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 checked="" 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 checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> DRY CLEANER REGISTRATION	

SITE WHERE VIOLATION(S) OCCURRED: 9346 Highway 87 E., San Antonio, Bexar County

TYPE OF OPERATION: Trucking company which collected and transported refuse to disposal facilities

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: A complaint regarding this facility was received by the TCEQ San Antonio regional office on September 28, 2005. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: There has been a complaint, but the complainant has not indicated a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 15, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Shawn A. Slack, Litigation Division, MC 175, (512) 239-0063; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Mr. Ruben Soto, Enforcement Division, MC 169, (512) 239-4571

TCEQ Regional Contact: Mr. Bobby Caldwell, San Antonio Regional Office, MC R-13, (210) 403-4020

Respondent: Mr. Eduardo Pupo, Registered Agent, Sentinel Refuse, LLC, 24206 Bay Hill, Katy, Texas 77494; and 1014 Sherfield Ridge, Katy, Texas, 77450

Respondent's Attorney: Not represented by counsel.

RESPONDENT'S NAME: SENTINEL REFUSE, LLC
DOCKET NO.: 2005-2067-MLM-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: September 28, 2005</p> <p>Date(s) of Investigation(s) Relating to this Case: October 3, 2005</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: December 8, 2005 (NOE)</p> <p>Background Facts: An EDPRP was filed on August 18, 2006. The Respondent received notice of the EDPRP on or about August 23, 2006. The Respondent has not filed an answer or requested a hearing.</p> <p>The Respondent does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MLM:</p> <p>1. Failed to obtain authorization to discharge storm water associated with industrial activity [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p> <p>2. Failed to prevent unauthorized discharges associated with industrial activity [TEX. WATER CODE § 26.121(a) and (c) and 30 TEX. ADMIN. CODE § 330.5 (currently codified as 30 TEX. ADMIN. CODE § 330.15)].</p>	<p>Total Assessed: \$7,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$7,000</p> <p>This is a Default Order.</p> <p>The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of this Order.</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>Corrective Action(s) Taken</p> <p>The Executive Director does not recommend any corrective measures at this time because the Respondent abandoned its operations at this facility on or about December 25, 2005, and the property owner removed and properly disposed of the affected soil.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	21-Feb-2006			
	PCW	12-Jun-2006	Screening	03-Mar-2006	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Sentinel Refuse, LLC				
Reg. Ent. Ref. No.	RN104789235				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor Source		

CASE INFORMATION					
Enf./Case ID No.	28533	No. of Violations	3		
Docket No.	2005-2067-MLM-E	Order Type	1660		
Media Program(s)	Water Quality	Enf. Coordinator	Ruben Soto		
Multi-Media	MSW	EC's Team	Enforcement Team 1		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,000
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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
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Notes	No enhancement due to Average Performer classification.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	Respondent does not meet culpability criteria.
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Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
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Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes	The Respondent abandoned the Site, therefore, Good Faith Effort is not offered.
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Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Approx. Cost of Compliance	\$6,000
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SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes	
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Final Penalty Amount	\$7,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,000
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Not an expedited case, therefore, a deferral is not recommended.
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PAYABLE PENALTY	\$7,000
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Screening Date 03-Mar-2006 **Docket No.** 2005-2067-MLM-E **PCW**
Respondent Sentinel Refuse, LLC *Policy Revision 2 (September 2002)*
Case ID No. 28533 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN104789235
Media [Statute] Water Quality
Enf. Coordinator Ruben Soto

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 enhancement due to Average Performer classification.

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

Screening Date	03-Mar-2006	Docket No.	2005-2067-MLM-E	PCW
Respondent	Sentinel Refuse, LLC		Policy Revision 2 (September 2002)	
Case ID No.	28533		PCW Revision May 19, 2005	
Reg. Ent. Reference No.	RN104789235			
Media [Statute]	Water Quality			
Enf. Coordinator	Ruben Soto			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)			
Secondary Rule Cite(s)				
Violation Description	The Respondent failed to obtain authorization to discharge storm water associated with industrial activity, as documented during an investigation conducted on October 3, 2005.			
Base Penalty			\$10,000	

>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.			
Adjustment			-\$9,000	

Base Penalty Subtotal	\$1,000
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Violation Events				
Number of Violation Events		<input type="text" value="5"/>		
mark only one use a small x	daily	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	monthly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	annual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	single event	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Violation Base Penalty
				\$5,000
Five monthly events are recommended from the investigation date (October 3, 2005) through the screening date (March 3, 2006).				

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$2,100"/>	Violation Final Penalty Total <input type="text" value="\$5,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,000"/>	

Economic Benefit Worksheet

Respondent: Sentinel Refuse, LLC
 Case ID No.: 28533
 Reg. Ent. Reference No.: RN104789235
 Media [Statute]: Water Quality
 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
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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

Notes for DELAYED costs

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)	\$2,000	03-Oct-2005	25-Dec-2005	1.0	\$100	\$2,000	\$2,100

Notes for AVOIDED costs
 The estimated cost of submitting an NOI and preparing a storm water pollution prevention plan. Date required is the date violation was documented and the final date is the date the Respondent vacated the Site.

Approx. Cost of Compliance \$2,000 **TOTAL** \$2,100

Screening Date	03-Mar-2006	Docket No.	2005-2067-MLM-E	PCW
Respondent	Sentinel Refuse, LLC		Policy Revision 2 (September 2002)	
Case ID No.	28533		PCW Revision May 19, 2005	
Reg. Ent. Reference No.	RN104789235			
Media [Statute]	Water Quality			
Enf. Coordinator	Ruben Soto			
Violation Number	2			
Primary Rule Cite(s)	Texas Water Code § 26.121(a)			
Secondary Rule Cite(s)				
Violation Description	The Respondent failed to prevent unauthorized discharges associated with industrial activity, as documented during an investigation conducted on October 3, 2005. Specifically, stormwater runoff comingled with sediment was observed flowing into a bar ditch along U.S. 87 from the south east corner of the property.			
Base Penalty	\$10,000			

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events: 1

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

Violation Base Penalty: \$1,000

One single event is recommended based on the investigation conducted on October 3, 2005.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$2,100	Violation Final Penalty Total: \$1,000
This violation Final Assessed Penalty (adjusted for limits): \$1,000	

Economic Benefit Worksheet

Respondent: Sentinel Refuse, LLC
 Case ID No. 28533
 Reg. Ent. Reference No. RN104789235
 Media [Statute] Water Quality
 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
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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

Notes for DELAYED costs

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)	\$2,000	03-Oct-2005	25-Dec-2005	1.0	\$100	\$2,000	\$2,100

Notes for AVOIDED costs

Estimated cost to implement preventive measures to avoid soil contamination and stormwater runoff. Date required is the date the violations were documented and the final date is the date the Respondent vacated the Site.

Approx. Cost of Compliance \$2,000

TOTAL \$2,100

Screening Date	03-Mar-2006	Docket No.	2005-2067-MLM-E	PCW
Respondent	Sentinel Refuse, LLC		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	28533		<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No.	RN104789235			
Media [Statute]	Water Quality			
Enf. Coordinator	Ruben Soto			
Violation Number	<input type="text" value="3"/>			
Primary Rule Cite(s)	30 Tex. Admin. Code § 330.15 (formerly 30 Tex. Admin. Code § 330.5)			
Secondary Rule Cite(s)	Texas Water Code § 26.121(c)			
Violation Description	The Respondent failed to prevent unauthorized discharges associated with industrial activity, as documented during an investigation conducted on October 3, 2005. Specifically, a petroleum-based waste was observed dripping directly onto the soil from trucks that were being serviced.			
Base Penalty	<input type="text" value="\$10,000"/>			

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text"/>
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 as a result of the violation.				

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 <input type="text" value="\$2,100"/>	Violation Final Penalty Total <input type="text" value="\$1,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,000"/>	

Economic Benefit Worksheet

Respondent: Sentinel Refuse, LLC
 Case ID No: 28533
 Reg. Ent. Reference No: RN104789235
 Media [Statute]: Water Quality
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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

Notes for DELAYED costs

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)	\$2,000	03-Oct-2005	25-Dec-2005	1.0	\$100	\$2,000	\$2,100

Notes for AVOIDED costs

Estimated cost to implement preventive measures to avoid soil contamination and stormwater runoff. Date required is the date the violations were documented and the final date is the date the Respondent vacated the Site.

Approx. Cost of Compliance \$2,000

TOTAL \$2,100

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SENTINEL REFUSE, LLC,
RN104789235

§
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§
§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2005-2067-MLM-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including, the imposition of an administrative penalty of the respondent. The respondent made the subject of this Order is Sentinel Refuse, LLC ("Sentinel").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Sentinel owned and operated a trucking company which collected and transported refuse to disposal facilities located at 9346 Highway 87 E., San Antonio, Bexar County, Texas (the "Facility").
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code. The Facility involves the management and disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection conducted on or about October 3, 2005, a TCEQ San Antonio Regional Office investigator documented that Sentinel:
 - a. Failed to obtain authorization to discharge storm water associated with industrial activity.

- b. Failed to prevent unauthorized discharges associated with industrial activity. Specifically, stormwater runoff comingled with sediment was observed flowing into a bar ditch along Highway 87 E. from the south east corner of the property.
 - c. Failed to prevent unauthorized discharges associated with industrial activity. Specifically, a petroleum-based waste was observed dripping directly onto the soil from trucks that were being serviced.
4. Sentinel received notice of the violations on or about December 13, 2005.
 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Sentinel Refuse, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on August 18, 2006.
 6. By letter dated August 18, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Sentinel with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Sentinel received notice of the EDPRP.
 7. More than 20 days have elapsed since Sentinel received notice of the EDPRP, provided by the Executive Director. Sentinel failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Sentinel is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Sentinel failed to obtain authorization to discharge storm water associated with industrial activity, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c).
3. As evidenced by Finding of Fact No. 3.b. and 3.c., Sentinel failed to prevent unauthorized discharges associated with industrial activity, in violation of TEX. WATER CODE § 26.121(a) and (c) and 30 TEX. ADMIN. CODE § 330.5 (currently codified as 30 TEX. ADMIN. CODE § 330.15).

4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Sentinel with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 7, Sentinel has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Sentinel and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Sentinel for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of seven thousand dollars (\$7,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Sentinel is assessed an administrative penalty in the amount of seven thousand dollars (\$7,000.00) for violations of TEX. WATER CODE ch. 26, 40 Code of Federal Regulations § 122.26(c), and rules of the TCEQ. The payment of this administrative penalty and Sentinel's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Sentinel Refuse, LLC; Docket No. 2005-2067-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. The Executive Director does not recommend any corrective measures at this time.
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Sentinel. Sentinel is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility's operations referenced in this Order.
5. If Sentinel fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Sentinel's failure to comply is not a violation of this Order. Sentinel shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Sentinel shall notify the Executive Director within seven days after Sentinel 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 Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Sentinel shall be made in writing to the Executive Director. Extensions are not effective until Sentinel receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Sentinel if the Executive Director determines that Sentinel has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF SHAWN A. SLACK

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Shawn A. Slack. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Sentinel Refuse, LLC” (the “EDPRP”) with the Office of the Chief Clerk on August 18, 2006.

I sent the EDPRP to Sentinel at its last known address on August 18, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

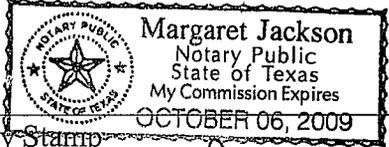
More than 20 days have elapsed since Sentinel received notice of the EDPRP. Sentinel failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Shawn A. Slack, Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Shawn A. Slack, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 16 day of November A.D., 2006.


Notary Stamp
