

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1029-IHW-E **TCEQ ID:** RN101859445 **CASE NO.:** 30301

RESPONDENT NAME: BFI Waste Services of Texas, LP

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 checked="" type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input 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: BFI Bay Area Hauling Facility, 5301 Brookglen Drive, Houston, Harris County

TYPE OF OPERATION: Waste transportation company

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Alison Echlin, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-3308; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Bill Crane, General Manager, BFI Waste Services of Texas, LP, 5301 Brookglen Drive, Houston, Texas 77017

Mr. Christopher W. Synek, Senior Vice President, BFI Waste Services of Texas, LP, 5301 Brookglen Drive, Houston, Texas 77017

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

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 checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: April 18 and October 11, 2006</p> <p>Date of NOE Relating to this Case: July 12, 2006 (NOE)</p> <p>Background Facts: These were routine investigations. Three violations were documented.</p> <p>WASTE</p> <p>1) Failed to transport a manifested Class 1 industrial waste to a designated authorized facility shown on the manifest which was authorized to accept the waste. Specifically, approximately 17 cubic yards of contaminated soil from cleanup activities were transported to and disposed of in the McCarty Road Landfill which is not permitted to receive Class I industrial waste [30 TEX. ADMIN. CODE §§ 335.11(h)(1) and 335.2(b)].</p> <p>2) Failed to obtain a properly completed manifest for a Class I industrial waste. Specifically, the manifest did not contain the correct transporter state registration number [30 TEX. ADMIN. CODE § 335.11(a)(1)].</p> <p>3) Failure to pay fees for Waste Management Sludge Haulers TCEQ Account Number 081267H and associated late fees for Fiscal Year 2006 [30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$1,122</p> <p>Total Deferred: \$224 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$898</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 Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease transporting any additional Class I waste to the McCarty Road Landfill or any other unauthorized facility;</p> <p>b. Within 30 days after the effective date of this Agreed Order, implement appropriate manifest reviewing procedures prior to accepting wastes to ensure that only correctly completed manifests are obtained and waste is transported to authorized facilities only;</p> <p>c. Within 30 days after the effective date of this Agreed Order, submit payment for outstanding fees, including any associated penalties and interest; and</p> <p>d. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through c.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES	Assigned	17-Jul-2006			
	PCW	20-Jul-2006	Screening	20-Jul-2006	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	BFI Waste Services of Texas, LP				
Reg. Ent. Ref. No.	RN101859445				
Facility/Site Region	12-Houston	Major/Minor Source	Minor Source		

CASE INFORMATION					
Enf./Case ID No.	30301	No. of Violations	3		
Docket No.	2006-1029-IHW-E	Order Type	1660		
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Alison Echlin		
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** \$1,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 2% Enhancement **Subtotals 2, 3, & 7** \$22

Notes: The Respondent received one NOV without same or similar violations for this site in 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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: No Good Faith Effort adjustment is recommended because it is no longer possible for the wastes to be recovered and properly disposed of.

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

Total EB Amounts	\$553	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$550	

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$1,122

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 \$1,122

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$1,122

DEFERRAL 20% Reduction **Adjustment** -\$224

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY \$898

Screening Date 20-Jul-2006 **Docket No.** 2006-1029-IHW-E **PCW**
Respondent BFI Waste Services of Texas, LP *Policy Revision 2 (September 2002)*
Case ID No. 30301 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101859445
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Alison Echlin

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 NOV's meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	<i>Please Enter Yes or No</i>		
	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> **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 received one NOV without same or similar violations for this site in the past five years.

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

Screening Date 20-Jul-2006 **Docket No.** 2006-1029-IHW-E **PCW**
Respondent BFI Waste Services of Texas, LP *Policy Revision 2 (September 2002)*
Case ID No. 30301 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101859445
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Alison Echlin
Violation Number 1
Primary Rule Cite(s) 30 Tex. Admin. Code §§ 335.11(h)(1) and 335.2(b)
Secondary Rule Cite(s)
Violation Description Failure to deliver a manifested Class 1 industrial waste to an authorized facility, as documented during an investigation conducted on April 18, 2006. Specifically, approximately 17 cubic yards of contaminated soil from cleanup activities were transported to and disposed of in the McCarty Road Landfill which is not permitted to receive Class 1 industrial waste.
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 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.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$500	Violation Final Penalty Total \$1,020
This violation Final Assessed Penalty (adjusted for limits) \$1,020	

Economic Benefit Worksheet

Respondent: BFI Waste Services of Texas, LP
 Case ID No: 30301
 Reg. Ent. Reference No: RN101859445
 Media [Statute]: Industrial and Hazardous 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
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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]	\$500	16-Jan-2006	16-Jan-2006	0.0	\$0	\$500	\$500
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Estimated cost to transport the waste to the authorized facility. The Date Required and the Final Date is the date the waste was transported and disposed of at the unauthorized facility.							

Approx. Cost of Compliance \$500

TOTAL \$500

Screening Date 20-Jul-2006

Docket No. 2006-1029-IHW-E

PCW

Respondent BFI Waste Services of Texas, LP

Policy Revision 2 (September 2002)

Case ID No. 30301

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101859445

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Alison Echlin

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

		Major	Moderate	Minor	
	Falsification	<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: BFI Waste Services of Texas, LP
 Case ID No: 30301
 Reg. Ent. Reference No: RN101859445
 Media (Statute): Industrial and Hazardous 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
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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]	\$50	18-Apr-2006	07-Apr-2007	1.0	\$3	\$50	\$53
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Estimated cost to obtain a correctly completed manifest from the investigation date April 18, 2006 to the estimated date of compliance April 7, 2007.							

Approx. Cost of Compliance

TOTAL

Screening Date 20-Jul-2006 **Docket No.** 2006-1029-IHW-E **PCW**
Respondent BFI Waste Services of Texas, LP *Policy Revision 2 (September 2002)*
Case ID No. 30301 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101859445
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Alison Echlin
Violation Number
Primary Rule Cite(s) 30 Tex. Admin. Code § 312.9
Secondary Rule Cite(s) Tex. Water Code § 5.702
Violation Description Failure to pay fees for Waste Management Sludge Haulers TCEQ Account Number 081267H and associated late fees for Fiscal Year 2006, as documented during a record review conducted on October 11, 2006.

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<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

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input 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: BFI Waste Services of Texas, LP
 Case ID No: 30301
 Reg. Ent. Reference No: RN101859445
 Media [Statute]: Industrial and Hazardous Waste
 Violation No: 3

Percent Interest	Years of Depreciation
5.0	15

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

Description No commas or \$

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	N/A						

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	N/A						

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN601527963 BFI Waste Services of Texas, LP Classification: AVERAGE Rating: 2.41
 Regulated Entity: RN101859445 BFI BAY AREA HAULING FACILITY Classification: AVERAGE BY DEFAULT Site Rating: 3.01

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 71219
 REGISTRATION INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000015701
 GENERATION

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 85812
 GENERATION (SWR)
 SLUDGE REGISTRATION 21518
 STORMWATER PERMIT TXR05O072
 TIRES REGISTRATION 6200335

Location: 5301 BROOKGLEN DR, HOUSTON, TX, 77017 Rating Date: September 01 05 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 06, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 17, 2001 to July 17, 2006

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 05/24/2006 (464215)

N/A

2 07/12/2006 (482142)

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

Date: 02/22/2006 (464215)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.57(c)(1)

Description: The facility transported processed scrap tires from La Porte Tire Center, but is unauthorized to transport processed scrap tires.

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
BFI WASTE SERVICES OF TEXAS,
LP
RN101859445**

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

AGREED ORDER DOCKET NO. 2006-1029-IHW-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 BFI Waste Services of Texas, LP ("BFI") under the authority of the TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 5 and 7. The Executive Director of the TCEQ, through the Enforcement Division, and BFI appear before the Commission and together stipulate that:

1. BFI owns and operates a waste transportation company at 5301 Brookglen Drive in Houston, Harris County, Texas (the "Operation"). BFI transported Class I industrial waste to the BFI McCarty Road municipal solid waste landfill for disposal.
2. The Operation involves or involved the management of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and BFI agree that the Commission has jurisdiction to enter this Agreed Order, and that BFI is subject to the Commission's jurisdiction.
4. BFI received notice of the violations alleged in Section II ("Allegations") on or about July 17, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by BFI of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand One Hundred Twenty-Two Dollars (\$1,122) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). BFI has paid Eight Hundred Ninety-Eight Dollars (\$898) of the administrative penalty and Two Hundred Twenty-Four Dollars (\$224) is deferred contingent upon BFI'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 BFI fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require BFI to pay all or part of the deferred penalty.

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 BFI 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 BFI 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 transporter, BFI is alleged to have:

1. Failed to transport a manifested Class 1 industrial waste to a designated authorized facility shown on the manifest which was authorized to accept the waste, in violation of 30 TEX. ADMIN. CODE §§ 335.11(h)(1) and 335.2(b), as documented during an investigation conducted on April 18, 2006. Specifically, approximately 17 cubic yards of contaminated soil from cleanup activities were transported to and disposed of in the McCarty Road Landfill which is not permitted to receive Class 1 industrial waste.
2. Failed to obtain a properly completed manifest for a Class I industrial waste, in violation of 30 TEX. ADMIN. CODE § 335.11(a)(1), as documented during an investigation conducted on April 18, 2006. Specifically, the manifest did not contain the correct transporter state registration number.
3. Failure to pay fees for Waste Management Sludge Haulers TCEQ Account Number 081267H and associated late fees for Fiscal Year 2006, in violation of 30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702, as documented during a record review conducted on October 11, 2006.

III. DENIALS

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

...the ...
...the ...

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that BFI pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and BFI'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: BFI Waste Services of Texas, LP, Docket No. 2006-1029-IHW-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 BFI shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease transporting any additional Class I waste to the McCarty Road Landfill or any other unauthorized facility;
 - b. Within 30 days after the effective date of this Agreed Order, implement appropriate manifest reviewing procedures prior to accepting wastes to ensure that only correctly completed manifests are obtained and waste is transported to authorized facilities only;
 - c. Within 30 days after the effective date of this Agreed Order, submit payment for outstanding fees, including any associated penalties and interest and with the notation, "BFI Waste Services of Texas, LP, Account No. 081267H", to the address listed in Ordering Provision No. 1; 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. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is crucial for ensuring transparency and accountability in the organization's operations.

2. The second part of the document outlines the various methods and tools used to collect and analyze data. It highlights the need for consistent data collection procedures and the use of advanced analytical techniques to derive meaningful insights from the data.

3. The third part of the document focuses on the implementation of data-driven decision-making processes. It discusses how the collected data is used to identify trends, assess risks, and inform strategic planning, ultimately leading to improved organizational performance.

4. The fourth part of the document addresses the challenges and limitations associated with data analysis. It notes that while data provides valuable insights, it is not infallible and must be interpreted with care, taking into account potential biases and the quality of the data source.

5. The fifth part of the document concludes by summarizing the key findings and recommendations. It stresses the importance of ongoing monitoring and evaluation of the data analysis process to ensure it remains effective and relevant in a rapidly changing business environment.

6. The final part of the document provides a brief overview of the future directions for data analysis in the organization. It suggests exploring new technologies and methodologies to further enhance the depth and breadth of the data analysis capabilities.

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 BFI, or three days after the date on which the Commission mails notice of the Order to BFI, 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

3/15/07
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.

Christopher R. Syner

Signature

10/20/06

Date

CHRISTOPHER R SYNER

Name (Printed or typed)
Authorized Representative of
BFI Waste Services of Texas, LP

SENIOR VICE PRESIDENT

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.

