EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0745-MLM-E **TCEQ ID:** RN104957188 **CASE NO.:** 29724

RESPONDENT NAME: A.D. Wallace dba A.D. Wallace Custom Fence

ORDER TYPE:			
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	_AMENDED ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
_SHUTDOWN ORDER	FINDINGS DEFAULT ORDER	EMERGENCY ORDER	ENDANGERMENT ORDER
CASE TYPE:			
AGRICULTURE	<u>X</u> AIR	INDUSTRIAL AND HAZARDOUS WASTE	X MUNICIPAL SOLID WASTE
_OCCUPATIONAL CERTIFICATION	PETROLEUM STORAGE TANKS	PUBLIC WATER SUPPLY	RADIOACTIVE WASTE
X MULTI-MEDIA (check all that apply)	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL	USED OIL
USED OIL FILTER	WATER QUALITY		
TYPE OF OPERATION: Fencing co	mpany No a: A complaint was received May 16, 2006,	22 Stubbs Road, Johnson City, Blanco County alleging inappropriate management of municipa	l waste. There is no record of additional pending
INTERESTED PARTIES: No one of	her than the ED and the Respondent has exp	pressed an interest in this matter.	
COMMENTS RECEIVED: The Texa	as Register comment period expired on Octo	ober 23, 2006. No comments were received.	
MC 219, (512) 239-1896 Respondent: Mr. A. D. Walla	inator: None	.O. Box 408, Johnson City, Texas 78636	9-3308; Mr. Steven Lopez, Enforcement Division

RESPONDENT'S NAME: A.D. Wallace dba A.D. Wallace Custom Fence DOCKET NO.: 2006-0745-MLM-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: X Complaint Routine Enforcement Follow-up Records Review	Total Assessed: \$7,500	Ordering Provisions:
Date of Complaint Relating to this Case: May 16, 2006	Total Deferred: \$1,500 X Expedited Settlement	The order will require the Respondent to:
Dates of Investigations Relating to this Case: May 16, 17 and 19, 2006	Financial Inability to Pay	a. Immediately upon the effective date of this Agreed Order, cease all unauthorized burning of waste materials;
Date of NOE Relating to this Case: June 2, 2006 (NOE)	SEP Conditional Offset: \$0	b. Immediately upon the effective date of this Agreed Order, cease the receipt and storage of any additional waste at the Site;
Background Facts: These were complaint investigations. Two violations were documented.	Total Paid (Due) to General Revenue: \$225 (remaining \$5,775 due in 35 monthly payments of \$165 each)	c. Within 30 days after the effective date of this Agreed Order, remove all waste materials from the Site and dispose of the waste at
AIR 1) Failed to comply with the general prohibition on outdoor burning. Specifically, approximately 2,550 cubic yards of construction and demolition debris including roofing material,	Site Compliance History Classification:High _X_AvgPoor Person Compliance History Classification:High _X_AvgPoor Major Source:Yes _X_No	an authorized facility; and 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.
wire fencing material, metal drums in various sizes, pallets, appliances, and furniture were burned at the Site [30 Tex. ADMIN. CODE § 111.201 and Tex. Health & Safety Code	Applicable Penalty Policy: September 2002	
§ 382.085(b)]. WASTE	ing in the second of the secon	General Towns of the Control of the
Failed to prevent the disposal of municipal solid waste at an unauthorized facility. Specifically, approximately 2,833 cubic yards of construction and demolition debris including roofing		
material, wire fencing material, metal drums in various sizes, pallets, appliances, and furniture were disposed of at the Site prior to burning [30 Tex. ADMIN CODE § 330.15(c)].		

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	•	-			/allace dba AD Wallace	Custom
Policy Revision 2 (zulätion Wor	ksheet (PCV	PCW Revision Ma	v 10 2005
CEQ	Oepterriber 2002)			-	, or neviolal ma	y 10, 2500
	05-Jun-2006		· · · · · · · · · · · · · · · · · · ·			
PCW	15-Jun-2006	Screening 1	2-Jun-2006 E	PA Due		المريانية والمستدار فستدار
ESPONDENT/FACIL						
		dba A.D. Wallace	Custom Fence			
Reg. Ent. Ref. No.		3			T	
Facility/Site Region	11-Austin		<	Major/Minor Sour	rce Minor Source	<
ASE INFORMATION				 		
Enf./Case ID No.	29724			No. of Violatio	ns 2	
Docket No.	2006-0745-ML	∟M-E		Order Ty	/pe 1660	<
Media Program(s)	Air Quality		<	Enf. Coordina	tor Alison Echlin	
Multi-Media	Municipal Soli	d Waste		EC's Te	am Enforcement Team	8 <
Admin. Penalty \$ Li	mit Minimum	\$0	Maximum \$10	0,000	a again a san an a	aparental and the contract of
-		Penalt	y Calculation	 Section		
•		1 Chan	y Calculation	100011011		
OTAL BASE PEN	ALTY (Sur	n of violation	base penalties))	Subtotal 1	\$5,000
	. () TO OUD	TOTAL 4				
ADJUSTMENTS (+						
		olying the Total Base F	• • • • • • •	the indicated percentage.	<u> </u>	
Compliance H	F		0% Enhand		ubtotals 2, 3, & 7	\$0
Notes	The Respond	lent has no prior (Orders or NOVs for	this site in the past f	ive	
110103			years.			
•	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,					
Culpability	No	<	0% Enhand	cement	Subtotal 4	\$0
Notes	The Re	spondent does no	ot meet the culpabil	lity requirements.		
L						
Good Faith Ef	fort to Compl	ly [*]	0% Reduct	tion '	Subtotal 5	\$0
	Before NOV	NOV to EDPRP/Set	tlement Offer			
Extraordinary						
Ordinary						
N/A	X	(mark with a small x)			÷
Notes		The Responde	nt is not yet in comp	pliance.		
		1				
Economic Be	nefit		50% Enhan	icement*	Subtotal 6	\$2,500
-	Total EB Amounts	\$33,304	*Cap _f	ped at the Total EB \$ Am	ount .	
	ost of Compliance	4				
05 0115707					E: 10.14.4.1	\$7.50 (
SUM OF SUBTOT	ALS 1-7				Final Subtotal	\$7,500
OTHER FACTORS	S AS JUSTI	CE MAY REQ	UIRE		Adjustment	\$0
Reduces or enhances the F	inal Subtotal by th	ne indicated percenta	ge. (Enter number only;	; e.g30 for -30%.)		
Notes						
	<u> </u>			Fins	I Penalty Amount	\$7,500
				* 11 ld	Silving Fallouint	Ψ.,σου
				•	_	
STATUTORY LIM	IT ADJUST	MENT		Final A	Assessed Penalty	\$7,500
STATUTORY LIMI	IT ADJUST	MENT		Final /	Assessed Penalty Adjustment	\$7,500 -\$1,500

Deferral offered for expedited settlement.

\$6,000

Notes

PAYABLE PENALTY

Screening Date 12-Jun-2006

Fence PCW dpw Docket No. 2006-0745-MLM-E

1.8100

Respondent A.D. Wallace dba A.D. Wallace Custom Fence **Case ID No.** 29724

Policy Revision 2 (September 2002)

Reg. Ent. Reference No. RN104957188 Media [Statute] Air Quality Enf. Goordinator Alison Echlin

PCW Revision May 19, 2005

Compliance History Worksheet

		1 1			A CONTRACTOR OF THE PARTY OF TH	
2 .				and the state of the state of	Fac. 1 4 1.41.1 (A)	•
	Compliance	HICTORY	CITA LANAN	comont.	SIINTATAL 7	1

Component		Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
The second secon	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0. 10	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement or 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	ders 0	0%
Judgments and	Any non-adjudicated final court judgments or consent decrees contain denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	ing a 0	0%
Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a de of liability, of this state or the federal government	nial	0%
Convictions	Any criminal convictions of this state or the federal government (numb of counts)	<i>er</i> 0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
A udita	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act 74th Legislature, 1995 (number of audits for which notices were		0%
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		0%
		nse Enter Yes or No	
Ollera	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%
Other	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)	operation of the above that are displayed in the All All All All All All All All All Al	
	No <	Adjustment Percentage (Subtotal 3) 0%	
>	Compliance History Person	Classification (Subtotal 7)	
	Average Performer	Adjustment Percentage (Subtotal 7) 0%	
>	Compliance History Summa		
	Compliance The	Respondent has no prior Orders or NOVs for this site in the past five years.	

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

Pa	age 3 of 6 10/16		AD Wallace Custom
	Screening	g Date 12-Jun-2006 Fence PCW gpw Docket No. 2006-0745-MLM-E	PCW
9	_		Revision 2 (September 2002)
		IPS A I	PCW Revision May 19, 2005
Rea.		ce No. RN104957188	, , , , , , , , , , , , , , , , , , , ,
		tatute] Air Quality	
		linator Alison Echlin	
	Violation N		
	Primary Rule		–
	Secondary Rule		
	Violation Desc	Failure to comply with the general prohibition on outdoor burning, as documented during investigations conducted by Blanco County on May 2006 and the TCFO on May 19, 2006. Specifically, approximately 2,55	
:		Base Pena	lty \$10,000
	. <u> </u>	<u> </u>	
>>	Environment	tal, Property and Human Health Matrix	
		Harm Release Major Moderate Minor	
OR		Release Major Moderate Minor Actual X	
		Potential Percent 25%	
>>	Programmat	tic Matrix	
	Fal	alsification Major Moderate Minor	
		Percent	
	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 as a result of the violation.	
		Adjustment -\$7,5	00
		Base Penalty Subto	tal \$2,500
		and the second s	
	Violation Eve	rents	
	Number	of Violation Events 1	· · · · · · · · · · · · · · · · · · ·
İ			k *
		daily monthly quarterly Violation Base Penale a small x semiannual	slty \$2,500
		single event X	
		Single event X	
and the state of t		One single event is recommended.	7 marianon-maria la di
	Economic B	Benefit (EB) for this violation Statutory Limit Test	
	Estir	mated EB Amount \$33,150 Violation Final Penalty To	otal \$3,750
1		This violation Final Assessed Penalty (adjusted for lim	its) \$3,750

\$0 0.0 Financial Assurance [2] 17-May-2006 0.0 **\$**0 \$33,150 ONE-TIME avoided costs [3] 0.0 \$0 Other (as needed) Estimated cost to properly dispose of the volume of waste that was disposed of by burning Notes for AVOIDED costs based on \$13 per cubic yard and 2,550 cubic yards of waste.

Approx. Cost of Compliance

\$33,150

\$33,150

\$0

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	Screening Date		Docket	No. 2006-0745-MLM-E		PCW
	-	A.D. Wallace dba A.I	D. Wallace Custo	m Fence	Policy Revision	1 2 (September 2002)
_	Case ID No.				PCW R	evision May 19, 2005
Reg.	Ent. Reference No.	· · · · · · · · · · · · · · · · · · ·	*			
	Media [Statute]	•				
	Enf. Coordinator					
	Violation Number		00 T A.L.: C			
	Primary Rule Cite(s)		30 Tex. Admin. C	ode § 330.15(c)		
	Secondary Rule Cite(s)			· · · · · · · · · · · · · · · · · · ·		
	Violation Description	facility, as document on May 16, 200 approximately 2,83 material, wire fend	ted during investions and the TCEQ 33 cubic yards of cing material, me	icipal solid waste at an ugations conducted by Bla on May 19, 2006. Speci demolition debris includital drums in various sizes osed of at the Site prior to	anco County ifically, ng roofing s, pallets,	
				В	ase Penalty	\$10,000
>>	Environmental, Pro		n Health Matr	ix	*	
	Delever	Harm	Maria			, t ₉
OR	Release Actual		Minor			
JK	Potential			Percent 25	%	
->	Programmatic Mat	rix				
	Falsification	Major Moderate	Minor	Dawa and	- -	
		<u> </u>		Percent		
	Matrix Notes amount	s of pollutants which o	do not exceed lev	exposed to significant els that are protective of a result of the violation.		
				Adjustme	nt -\$7,500	
				Base Pena	alty Subtotal	\$2,500
,	Violation Events				· · · · · · · · · · · · · · · · · · ·	•
	Number of Viola	tion Events 1				
		daily				
		monthly X]	· 		
	mark only one		4	Violation E	Base Penaity	\$2,50
	use a small)	semiannual annual	4			
		single event				
	One mon	thly event is recomme investigation date to		ay 16, 2006 Blanco Cour 3 screening date.	nty	
	Economic Benefit	(EB) for this viol	ation	Statutory Limi	t Test	
	Estimated I	EB Amount \$154	1	Violation Final F	Penalty Total	\$3,750
		TL!	iolotion Final A-	second Density (adition	ad for limita)	\$3,750
		inis v	iolation Final As	sessed Penalty (adjust	eu ioi iiiiiis)	\$3,75t

Compliance History

	10 0 0	ON CONCORDE	10/01/	10E 1D		01	A)/EDAOE	Dation	2.04
	mer/Respondent/Owner-Operator:	CN603039009		ACE, A D			: AVERAGE	Rating: 3	
	ated Entity:	RN104957188	ADW	ALLACE CUSTO	DM FENCE	Classification DEFAULT	: AVERAGE BY	Site Rati	ing: 3.01
	mber(s):	400 CTUDDS DD	IOLINICO	NI CITY TV 70/	226	Poting Date:	September 01 05	Popost \	fiolator: N
Locatio	on:	422 STUBBS RD,	JOHNSC	JN GITT, TA, 700	550	Rating Date.	September 01 03	кереа у	/ioiatoi . IN
TCEQ	Region:	REGION 11 - AUS	STIN						
Date C	Compliance History Prepared:	June 12, 2006					•		
Agenc	y Decision Requiring Compliance History:	Enforcement							
Compl	liance Period:	June 06, 2001 to	June 06, 2	2006					
TCEQ	Staff Member to Contact for Additional In	formation Regarding	this Comp	oliance History				,	
Name:	Alison Echlin	PI	none:	512-239-33	308		· · · · · · · · · · · · · · · · · · ·		
		Site Co	omplian	ce History Co	mponents				
1. Has	the site been in existence and/or operation	on for the full five yea	r compliar	nce period?	Yes				
2. Has	there been a (known) change in ownersh	hip of the site during th	ne compli	ance period?	No				
3. If Ye	es, who is the current owner?			r	N/A				
4. if Y	'es, who was/were the prior owner(s)?				N/A				
5. Wh	nen did the change(s) in ownership occur?	?			N/A				
Comp	ponents (Multimedia) for the Site :	:							
A.	Final Enforcement Orders, court judgem	ents, and consent de	crees of the	ne state of Texas	and the federal g	overnment.			
	N/A	3			1				
В.	Any criminal convictions of the state of T	Texas and the federal	governme	ent.					
C.	Chronic excessive emissions events.								
	N/A								
D.	The approval dates of investigations. (C	CCEDS Inv. Track. No	.)						
	N/A		,						
E.	Written notices of violations (NOV). (CC	EDS Inv. Track. No.)							
<u>.</u> .		,							
	N/A								
F.	Environmental audits. N/A								
G.	Type of environmental management sys	stems (EMSs).					,		•
	N/A								
H.	Voluntary on-site compliance assessme	ent dates.							
	N/A								
1.	Participation in a voluntary pollution redu	uction program.							
	N/A			•					
· J, · ·	Early compliance.								
	N/A								
Sites	Outside of Texas .								
	N/A						•		

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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AGREED ORDER DOCKET NO. 2006-0745-MLM-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding A.D. Wallace dba A.D. Wallace Custom Fence ("Mr. Wallace") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382, and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Wallace appear before the Commission and together stipulate that:

- 1. Mr. Wallace owns and operates a fencing company at 422 Stubbs Road near Johnson City, Blanco County, Texas (the "Site").
- 2. The Site involves or involved the management of municipal solid waste as defined in Tex. Health & Safety Code ch. 361 and consists of one or more sources as defined in Tex. Health & Safety Code § 382.003(12).
- 3. The Commission and Mr. Wallace agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Wallace is subject to the Commission's jurisdiction.
- 4. Mr. Wallace received notice of the violations alleged in Section II ("Allegations") on or about June 7, 2006.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Wallace 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) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Wallace has paid Two Hundred Twenty-Five Dollars (\$225) of the administrative penalty and One Thousand Five Hundred Dollars (\$1,500) is deferred contingent upon Mr. Wallace's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived

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SAKET VOUSEWAOO LATINISANOEWYEE NO YTHANESO upon full compliance with the terms of this Agreed Order. If Mr. Wallace fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Wallace to pay all or part of the deferred penalty.

The remaining amount of Five Thousand Seven Hundred Seventy-Five Dollars (\$5,775) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Sixty-Five Dollars (\$165) 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. Wallace fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Wallace to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Wallace to timely and satisfactorily comply with all the terms of this Agreed Order.

- 7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Mr. Wallace 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. Wallace has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to comply with the general prohibition on outdoor burning, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during site inspections conducted by Blanco County on May 17, 2006 and the TCEQ on May 19, 2006. Specifically, approximately 2,550 cubic yards of construction and demolition debris including roofing material, wire fencing material, metal drums in various sizes, pallets, appliances, and furniture were burned at the Site.

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A.D. Wallace dba A.D. Wallace Custom Fence DOCKET NO. 2006-0745-MLM-E Page 3

2. Failed to prevent the disposal of municipal solid waste at an unauthorized facility, in violation of 30 Tex. ADMIN. CODE § 330.15(c), as documented during site inspections conducted by Blanco County on May 16, 2006 and the TCEQ on May 19, 2006. Specifically, approximately 2,833 cubic yards of construction and demolition debris including roofing material, wire fencing material, metal drums in various sizes, pallets, appliances, and furniture were disposed of at the Site prior to burning.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Wallace pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Wallace'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: A.D. Wallace dba A.D. Wallace Custom Fence, Docket No. 2006-0745-MLM-E" to:

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

- 2. It is further ordered that Mr. Wallace shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease all unauthorized burning of waste materials;
 - b. Immediately upon the effective date of this Agreed Order, cease the receipt and storage of any additional waste at the Site;
 - c. Within 30 days after the effective date of this Agreed Order, remove all waste materials from the Site and dispose of the waste at an authorized facility; and
 - d. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision nos. 2.a. through 2.c.

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

 $\mathcal{L}_{i,j}(\mathbf{x}) = \mathcal{L}_{i,j}(\mathbf{x}) \cdot \mathbf{x}^{*}$ (1) Algebra $\mathcal{L}_{i,j}(\mathbf{x}) = \mathcal{L}_{i,j}(\mathbf{x})$

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"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 Austin Regional Office Texas Commission on Environmental Quality 1921 Cedar Bend Drive Austin, Texas 78758-5336

- 3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Wallace. Mr. Wallace is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
- 4. If Mr. Wallace 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. Wallace's failure to comply is not a violation of this Agreed Order. Mr. Wallace shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Wallace shall notify the Executive Director within seven days after Mr. Wallace becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 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. Wallace shall be made in writing to the Executive Director. Extensions are not effective until Mr. Wallace receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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A.D. Wallace dba A.D. Wallace Custom Fence DOCKET NO. 2006-0745-MLM-E Page 5

- 6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Wallace in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Wallace, or three days after the date on which the Commission mails notice of the Order to Mr. Wallace, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	Date
I, the undersigned, have read and understand the attace attached Agreed Order on behalf of the entity, if any, it terms and conditions specified therein. I further acknown penalty amount, is materially relying on such represent	indicated below my signature, and I do agree to the wledge that the TCEQ, in accepting payment for the
penalties, and/or attorney fees, or to a c • Increased penalties in any future enforcement:	comitted by me; Office for contempt, injunctive relief, additional collection agency; actions against me; Office of any future enforcement actions against
Signature Signature	<u>9-24-06</u> Date
A.D. Wallace Custom Fence	Date Date 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.

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