

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NUMBER: 2005-1040-MC 7-E TCEQ ID NO: RN100712983 AND RN104574728 ENF ID: 25832

RESPONDENT NAME: CHARLES D. HODGES DBA NORTH WESTERN EXCAVATION AND DIRT LANDFILL, LLP

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 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: 1016 Oak Grove Road, Fort Worth, Tarrant County, and 5200 East Loop 820 South, Fort Worth, Tarrant County.

TYPE OF OPERATION: Disposal facilities on real property

SMALL BUSINESS:  Yes  No

OTHER SIGNIFICANT MATTERS: There were two previous complaints from the same complainant. The complainant has not expressed any interest in attending Agenda.

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 November 6, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  
TCEQ Enforcement Coordinator: Ms. Dana Shuler, Enforcement Division, MC 128, (512) 239-2505  
TCEQ Regional Contact: Mr. Samuel Barrett, DFW Regional Office, MC R-4, (817) 588-5903  
Respondent: Mr. Charles D. Hodges, 137 Sycamore School Road, Suite 104, Fort Worth, Texas 76132  
Respondent's Attorney: Not represented by counsel.

RECEIVED  
NOV 15 2006  
TARRANT COUNTY  
CLERK OF COUNTY COURTS  
1000 MAIN ST  
FORT WORTH, TX 76102

**RESPONDENT'S NAME: CHARLES D. HODGES DBA NORTH WESTERN EXCAVATION  
AND DIRT LANDFILL, LLP  
DOCKET NO.: 2005-1040-MSW-E**

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: February 11, 2005 and March 23, 2005</p> <p>Date(s) of Investigation(s) Relating to this Case: March 11, 2005, March 24, 2005</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: May 24, 2005 and July 27, 2005 (NOEs)</p> <p>Background Facts: An EIDPRP was filed on April 25, 2006. By certified and first class mail, notice of the EIDPRP was sent to the Respondent. The certified mailing was returned. The first class mailing was not returned indicating the Respondent received notice of the EIDPRP in accordance with 30 Tex. Admin. Code § 70.104(c)(2).</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MSW: _____</p> <p>1. Failed to prevent the disposal of municipal solid waste at an unauthorized facility. Specifically, as the operator of an unauthorized disposal facility located on property owned by the Texas Conference of Seventh Day Adventists, the Respondent received and disposed of approximately 121,000 cubic yards of construction debris including fresh asphalt, brush, wood 2" x 4"s, sheet particle board/plyboard, wall board/sheet rock, insulation material, air conditioning, and heating conduit, concrete with iron rebar, plastic five-gallon buckets, plastic sheeting, a lead acid battery, used tires, asphaltic shingles and municipal trash [30 TEX. ADMIN. CODE § 330.5(c)].</p> <p>2. Failed to prevent the disposal of municipal solid waste at an unauthorized facility. Specifically, as the operator of an unauthorized disposal facility, located on property owned by Central Freight Lines, Inc., the Respondent received and disposed of municipal solid waste which included brush, trees, construction debris, plywood, lumber, sheet plastic, plastic containers, tires, PVC pipe, iron T-posts, rebar, and other non inert materials [30 TEX. ADMIN. CODE § 330.5(c)].</p>	<p>Total Assessed: \$30,000</p> <p>Total Deferred: \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$30,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of the 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>Ordering Provision(s)</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, cease accepting any additional waste material at Site No. 1 and Site No. 2.</li> <li>2. Within 180 days, remove and dispose of all waste material at Site No. 1 and Site No. 2 at an authorized facility.</li> <li>3. Within 210 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 1 and 2 listed above.</li> </ol>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 10, 2005

**DATES** Assigned PCW  Screening  EPA Due

**RESPONDENT/FACILITY INFORMATION**  
 Respondent   
 Reg. Ent. Ref. No.   
 Facility/Site Region  Major/Minor Source

**CASE INFORMATION**  
 Enf./Case ID No.  No. of Violations   
 Docket No.  Order Type   
 Media Program(s)  Enf. Coordinator   
 Multi-Media  EC's Team   
 Admin. Penalty \$ Limit Minimum  Maximum

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

### 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

Notes

**Culpability** No 0% Enhancement Subtotal 4

Notes

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

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with a small x)

Notes

**Economic Benefit** 50% Enhancement\* Subtotal 6

Total EB Amounts	<input type="text" value="\$109,438"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$1,109,575"/>	

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL** 0% Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

**Screening Date** 10-Jun-2005 **Docket No.** 2005-1040-MSW-E **PCW**  
**Respondent** Charles D. Hodges dba North Western Excavation and Dirt Landfill LLP *Revision 2 (September 2002)*  
**Case ID No.** 25832 *PCW Revision May 10, 2005*  
**Reg. Ent. Reference No.** RN104574728  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Joseph Daley

**Compliance History Worksheet**

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

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

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

Screening Date 10-Jun-2005

Docket No. 2005-1040-MSW-E

PCW

Respondent Charles D. Hodges dba North Western Excavation and Dirt Landfill LLP

ision 2 (September 2002)

Case ID No. 25832

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN104574728

Media [Statute] Municipal Solid Waste

Enf. Coordinator Joseph Daley

Violation Number

1

Primary Rule Cite(s)

30 Tex. Admin. Code § 330.5(c)

Secondary Rule Cite(s)

Violation Description

Failure to prevent the disposal of municipal solid waste at an unauthorized facility, as documented during an investigation conducted on March 11, 2005. Specifically, as the operator of the unauthorized disposal facility located on the Seventh Day Adventist property the Respondent received and disposed of approximately 121,000 cubic yards of construction debris including fresh asphalt, brush, wood 2" X 4"s, sheet particle board/plyboard, wall board/sheet rock, insulation material, air conditioning and heating conduit, concrete with iron rebar, plastic five-gallon buckets, plastic sheeting, a lead acid battery, used tires, asphaltic shingles, and municipal trash.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual		X		Percent 25%
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification					Percent

Matrix Notes

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

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 3

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

Violation Base Penalty \$7,500

Three monthly events are recommended from the investigation date of March 11, 2005 and continuing until the screening date of June 10, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$109,438

Violation Final Penalty Total \$11,250

This violation Final Assessed Penalty (adjusted for limits) \$11,250

### Economic Benefit Worksheet

Respondent: Charles D. Hodges dba North Western Excavation and Dirt Landfill LLP  
 Case ID No: 25832  
 Reg. Ent. Reference No: RN104574728  
 Media (Statute): Municipal Solid Waste  
 Violation No: 1

Percent Interest:	Years of Depreciation:
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$500	11-Mar-2005	01-Mar-2007	2.0	\$49	n/a	\$49
Remediation/Disposal	\$1,109,075	11-Mar-2005	01-Mar-2007	2.0	\$109,388	n/a	\$109,388
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to train personnel on classifications of non-inert and inert waste and to transport and properly dispose of approximately 4,033 loads of material at \$275 per load. Date required is the date the violation was first documented. Final date is the expected date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Annualized Costs							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: **\$1,109,575**      **TOTAL: \$109,438**



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

**DATES** Assigned  PCW  Screening  EPA Due

**RESPONDENT/FACILITY INFORMATION**  
 Respondent   
 Reg. Ent. Ref. No.   
 Facility/Site Region  Major/Minor Source

**CASE INFORMATION**  
 Enf./Case ID No.  No. of Violations   
 Docket No.  Order Type   
 Media Program(s)  Enf. Coordinator   
 Multi-Media  EC's Team   
 Admin. Penalty \$ Limit Minimum  Maximum

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

### 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

Notes

**Culpability** No 0% Enhancement Subtotal 4

Notes

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

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with a small x)

Notes

**Economic Benefit** 50% Enhancement\* Subtotal 6

Total EB Amounts	<input type="text" value="\$46,444"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$479,550"/>	

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL** 0% Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

Screening Date 22-Aug-2005

Docket No. 2005-1040-MSW-E

PCW

Respondent Charles D. Hodges dba North Western Excavation and Dirt Landfill LLP

Revision 2 (September 2002)

Case ID No. 25832

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100712983

Media [Statute] Municipal Solid Waste

Enf. Coordinator Joseph Daley

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

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

Screening Date 22-Aug-2005

Docket No. 2005-1040-MSW-E

PCW

Respondent Charles D. Hodges dba North Western Excavation and Dirt Landfill LLP

Revision 2 (September 2002)

Case ID No. 25832

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100712983

Media [Statute] Municipal Solid Waste

Enf. Coordinator Joseph Daley

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 330.5(c)

Secondary Rule Cite(s)

Violation Description Failure to prevent the disposal of municipal solid waste at an unauthorized facility, as documented during an investigation conducted on March 24, 2005. Specifically, as the operator of the unauthorized disposal facility located on the Central Freight Line Property the Respondent received and disposed of municipal solid waste which included brush, trees, construction debris, plywood, lumber, sheet plastic, plastic containers, tires, PVC pipe, iron T-posts, rebar, and other non inert materials.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
		Major	Moderate	Minor	
OR	Release Actual		X		Percent 25%
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification					Percent

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

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 5

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

Violation Base Penalty \$12,500

Five monthly events are recommended from the investigation date of March 24, 2005 and continuing until the screening date of August 22, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$46,444

Violation Final Penalty Total \$18,750

This violation Final Assessed Penalty (adjusted for limits) \$18,750

### Economic Benefit Worksheet

Respondent Charles D. Hodges dba North Western Excavation and Dirt Landfill LLP  
 Case ID No. 25832  
 Reg. Ent. Reference No. RN100712983  
 Media [Statute] Municipal Solid Waste  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$500	24-Mar-2005	01-Mar-2007	1.9	\$48	n/a	\$48
Remediation/Disposal	\$479,050	24-Mar-2005	01-Mar-2007	1.9	\$46,396	n/a	\$46,396
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to train personnel on classifications of non-inert and inert waste and to transport and properly dispose of approximately 1,742 loads of material at \$275 per load. Date required is the date the violation was first documented. Final date is the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$479,550**

**TOTAL \$46,444**

# Compliance History

Customer/Respondent/Owner-Operator:	CN602822264 HODGES, CHARLES D.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN104574728 SEVENTH DAY ADVENTIST PROPERTY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER		455040157
Location:	1016 OAK GROVE RD, FORT WORTH, TX, 76115	Rating Date: 9/1/2005	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	March 31, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 20, 2000 to December 20, 2005		

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

Name: Joseph Daley Phone: 817-588-5928

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

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

N/A
- B. Any criminal convictions of the state of Texas and the federal government.  

N/A
- C. Chronic excessive emissions events.  

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  

N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  

N/A
- F. Environmental audits.  

N/A
- G. Type of environmental management systems (EMSs).  

N/A
- H. Voluntary on-site compliance assessment dates.  

N/A
- I. Participation in a voluntary pollution reduction program.  

N/A
- J. Early compliance.  

N/A
- Sites Outside of Texas  

N/A

## Compliance History

Customer/Respondent/Owner-Operator:	CN602822264 HODGES, CHARLES D	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN100712983 CENTRAL FREIGHT LINES INC FORT WORTH	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK	REGISTRATION	34154
	REGISTRATION		
	STORMWATER	PERMIT	TXR05L569
	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER	455040159
Location:	5200 E LOOP 820 N, FT WORTH, TX, 76101	Rating Date: September 01 05	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	December 20, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 20, 2000 to December 20, 2005		

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

Name: Joseph Daley Phone: 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)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



15 11 26  
CANCELED OFFICE

IN THE MATTER OF AN  
ENFORCEMENT ACTION  
AGAINST  
CHARLES D. HODGES DBA  
NORTH WESTERN EXCAVATION  
AND DIRT LANDFILL, LLP;  
RN100712983 and RN104574728

§  
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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2005-1040-MSW-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 ch. 7; TEX. HEALTH & SAFETY CODE ch. 361; and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Charles D. Hodges dba North Western Excavation and Dirt Landfill, LLP ("Mr. Hodges").

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

**FINDINGS OF FACT**

1. At the time of the violations Mr. Hodges operated unauthorized disposal facilities on real property located at 1016 Oak Grove Road, Fort Worth, Tarrant County, Texas (the "Site No. 1") and at 5200 East Loop 820 South, Fort Worth, Tarrant County, Texas (the "Site No. 2").
2. The Sites involved the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection conducted on March 11, 2005, a TCEQ Dallas/Fort Worth Regional investigator documented that Mr. Hodges failed to prevent the disposal of municipal solid waste at an unauthorized facility. Specifically, as the operator of an unauthorized disposal facility located on property owned by the Texas Conference of Seventh Day Adventists, Mr. Hodges received and disposed of approximately 121,000 cubic yards of construction debris including fresh asphalt, brush, wood 2" x 4"'s, sheet particle board/plyboard, wall board/sheet rock, insulation material, air conditioning and heating conduit, concrete with iron rebar, plastic five-gallon buckets, plastic sheeting, a lead acid battery, used tires, asphaltic shingles and municipal trash.

4. During an inspection conducted on March 24, 2005, a TCEQ Dallas/Fort Worth Regional investigator documented that Mr. Hodges failed to prevent the disposal of municipal solid waste at an unauthorized facility. Specifically, as the operator of an unauthorized disposal facility located on property owned by Central Freight Lines, Inc., Mr. Hodges received and disposed of municipal solid waste which included brush, trees, construction debris, plywood, lumber, sheet plastic, plastic containers, tires, PVC pipe, iron T-posts, rebar, and other non inert materials.
5. Mr. Hodges received notice of the violations on or about May 29, 2005 and August 2, 2005.
6. 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 and Requiring Certain Actions of Charles D. Hodges dba North Western Excavation and Dirt Landfill, LLP" (the "EDPRP") in the TCEQ Chief Clerk's office on April 25, 2006.
7. By letter dated April 25, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Hodges with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "undeliverable." The first class mail has not been returned, indicating that the respondent received notice of the EDPRP.
8. More than 20 days have elapsed since Mr. Hodges received notice of the EDPRP, provided by the Executive Director. Mr. Hodges 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, Mr. Hodges is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7; TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Hodges failed to prevent the disposal of municipal solid waste at an unauthorized facility. Specifically, as the operator of an unauthorized disposal facility located on property owned by the Texas Conference of Seventh Day Adventists, Mr. Hodges received and disposed of approximately 121,000 cubic yards of construction debris including fresh asphalt, brush, wood 2" x 4"s, sheet particle board/plyboard, wall board/sheet rock, insulation material, air conditioning and heating conduit, concrete with iron rebar, plastic five-gallon buckets, plastic sheeting, a lead acid

battery, used tires, asphaltic shingles and municipal trash, in violation of 30 TEX. ADMIN. CODE § 330.5(c).

3. As evidenced by Finding of Fact No. 4, Mr. Hodges failed to prevent the disposal of municipal solid waste at an unauthorized facility. Specifically, as the operator of an unauthorized disposal facility located on property owned by Central Freight Lines, Inc., Mr. Hodges received and disposed of municipal solid waste which included brush, trees, construction debris, plywood, lumber, sheet plastic, plastic containers, tires, PVC pipe, iron, T-posts, rebar, and other non inert materials, in violation of TEX. ADMIN. CODE § 330.5(c).
4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Mr. Hodges 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. 8, Mr. Hodges 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 Mr. Hodges 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 Mr. Hodges for violations of 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 thirty thousand dollars (\$30,000.00) 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. Mr. Hodges is assessed an administrative penalty in the amount of thirty thousand dollars (\$30,000.00) for violations of the Texas Health & Safety Code ch. 361 and rules of the TCEQ. The payment of this administrative penalty and Mr. Hodges' 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: Charles D. Hodges dba North Western Excavation and Dirt Landfill, LLP; Docket No. 2005-1040-MSW-E" to:

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

2. Mr. Hodges shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Mr. Hodges shall cease accepting any additional waste material at Site No. 1 and Site No. 2;
  - b. Within 180 days after the effective date of this Order, Mr. Hodges shall remove and dispose of all waste material at Site No. 1 and Site No. 2 at an authorized facility; and
  - c. Within 210 days after the effective date of this Order, Mr. Hodges shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

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

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true,

accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Mr. Samuel Barrett  
Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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

Charles D. Hodges dba  
North Western Excavation and Dirt Landfill, LLP  
Docket No. 2005-1040-MSW-E  
Page 7

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

AFFIDAVIT OF KATHLEEN C. DECKER

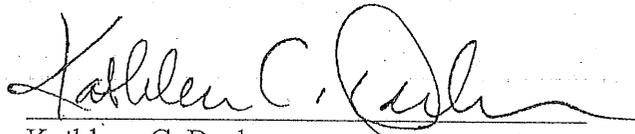
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Kathleen C. Decker. 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 and Requiring Certain Actions of Charles D. Hodges dba North Western Excavation and Dirt Landfill, LLP’ (the ‘EDPRP’) with the Office of the Chief Clerk on April 25, 2006.

I sent the EDPRP to Mr. Hodges at his last known address on April 25, 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 “undeliverable.” 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 Mr. Hodges received notice of the EDPRP. Mr. Hodges failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Kathleen C. Decker  
Attorney  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 31st day of May, 2006.

Notary Seal: JACQUELINE FRANCES DICKWORTH, Notary Public, State of Texas, My Commission Expires MARCH 07, 2007. Notary without Bonds