EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1812-MSW-E **TCEQ ID:** RN102459690 **CASE NO.:** 31509

RESPONDENT NAME: Maverick County

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	X MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Maverick County Road and Bridge, located behind the Loma Bonita Subdivision between Bianca Street and Christian Street, Eagle Pass, Maverick County

TYPE OF OPERATION: Unauthorized disposal site

SMALL BUSINESS: ___ Yes X No

OTHER SIGNIFICANT MATTERS: A complaint was received on July 20, 2006, concerning alleged illegal dumping behind the Loma Bonita Subdivision between Bianca Street and Christian Street. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received but the complainant has not expressed a desire to contest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 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, Enforcement Section I, (512) 239-1896

Respondent: The Honorable Jose Aranda, County Judge, Maverick County, 500 Quarry Street, Eagle Pass, Texas 78852

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

Attachment: Site Compliance History

RESPONDENT'S NAME: Maverick County
DOCKET NO.: 2006-1812-MSW-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: _X_ Complaint __ Routine __ Enforcement Follow-up __ Records Review **Date of Complaints Relating to this Case:** July 20, 2006 **Date of Investigation Relating to this Case:** July 20, 2006 **Date of NOE Relating to this Case:** September 14, 2006 (NOE) **Background Facts:** This was complaint investigation. One significant program violation was observed. **WASTE** Failure to dispose of municipal solid waste (MSW) at an authorized facility. Specifically, the County dumped 97 cubic yards of MSW, including construction debris, concrete with rebar, brush, cardboard, lumber, insulation, plywood and scrap metal sheets, at an unauthorized disposal site [30 TEX. ADMIN. CODE § 330.15(c)].	**Total Assessed:** $2,040 **Total Deferred:** $408 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,632 **Site Compliance History Classification:** __High _X_ Avg. __Poor **Person Compliance History Classification:** __High _X_ Avg. __Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions** The Order will require the Respondent to: a) Immediately upon the effective date of this Agreed Order, cease disposing any additional waste at the Site; b) Within 90 days after the effective date of this Agreed Order, ensure that all unauthorized waste at the Site is removed and properly disposed of at a permitted MSW disposal facility; and c) Within 105 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. and b.

Attachment: Site Compliance History

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	18-Sep-2006				
PCW	03-Oct-2006	Screening	23-Oct-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Maverick County		
Reg. Ent. Ref. No.	RN102459690		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31509	No. of Violations	1
Docket No.	2006-1812-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid 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* $2,000

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* $40

Notes: The respondent received one NOV without same or similar violations.

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 EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

Notes: The respondent does not meet the good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$70
Approx. Cost of Compliance	$1,261

SUM OF SUBTOTALS 1-7 Final Subtotal $2,040

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 $2,040

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $2,040

DEFERRAL 20% Reduction Adjustment -$408

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $1,632

Screening Date 23-Oct-2006 **Docket No.** 2006-1812-MSW-E **PCW**

Respondent Maverick County

Policy Revision 2 (September 2002)

Case ID No. 31509

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102459690

Media [Statute] Municipal Solid 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 *(number of NOVs meeting criteria)*	0	0%
	Other written NOVs	1	2%
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%
		Please Enter Yes or No	
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) **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.

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

PCW

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

Screening Date	23-Oct-2006
Docket No.	2006-1812-MSW-E
Respondent	Maverick County
Case ID No.	31509
Reg. Ent. Reference No.	RN102459690
Media [Statute]	Municipal Solid Waste
Enf. Coordinator	Alison Echlin
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 330.15(c)
Secondary Rule Cite(s)	
Violation Description	Failed to dispose of municipal solid waste at an authorized facility, as documented during an investigation conducted on July 20, 2006. Specifically, the Respondent dumped approximately 97 cubic yards of municipal solid waste, including construction debris, concrete with rebar, brush, cardboard, lumber, insulation, plywood and scrap metal sheets at an unauthorized disposal site.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

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

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 2

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

Violation Base Penalty $2,000

Two quarterly events are recommended from the investigation date, July 20, 2006 to the screening date October 23, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $70

Statutory Limit Test

Violation Final Penalty Total $2,040

This violation Final Assessed Penalty (adjusted for limits) $2,040

Economic Benefit Worksheet

Respondent: Maverick County
Case ID No.: 31509
Reg. Ent. Reference No.: RN102459690
Media [Statute]: Municipal Solid Waste
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal	$1,261	20-Jul-2006	28-Aug-2007	1.1	$70	n/a	$70
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to dispose of approximately 97 cubic yards of waste at a permitted municipal solid waste landfill at $13 per cubic yard from the investigation date to the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $1,261

TOTAL: $70

Compliance History

Customer/Respondent/Owner-Operator:	CN600640015	Maverick County	Classification: AVERAGE	Rating: 1.80
Regulated Entity:	RN102459690	MAVERICK COUNTY ROAD AND BRIDGE	Classification: AVERAGE	Site Rating: 0.50

ID Number(s):	SLUDGE	REGISTRATION	23551
Location:	behind Loma Bonita Subdivision between Bianca Street and Christian Street in Eagle Pass, Maverick County, Texas	Rating Date: 9/1/2006	Repeat Violator: NO

TCEQ Region: REGION 16 - LAREDO

Date Compliance History Prepared: September 19, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 19, 2001 to September 19, 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? 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.)

1 06/17/2004 (273988)
N/A
2 05/01/2006 (463752)
3 01/03/2006 (449927)

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

Date: 01/04/2006 (449927)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 312, SubChapter G 312.144(d)
Description: Failure to provide sight glass or provide alternative method of volume measurement.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 312, SubChapter G 312.145[G]
Description: Failure to provide trip tickets with required information.

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
MAVERICK COUNTY	§	
RN102459690	§	**ENVIRONMENTAL QUALITY**
	§	

AGREED ORDER
DOCKET NO. 2006-1812-MSW-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 Maverick County ("the County") under the authority of the TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the County appear before the Commission and together stipulate that:

1. The County operates an unauthorized disposal site behind the Loma Bonita Subdivision between Bianca Street and Christian Street in Eagle Pass, Maverick 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.

3. The Commission and the County agree that the Commission has jurisdiction to enter this Agreed Order, and that the County is subject to the Commission's jurisdiction.

4. The County received notice of the violations alleged in Section II ("Allegations") on or about September 19, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the County of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Forty Dollars ($2,040) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The County has paid One Thousand Six Hundred Thirty-Two Dollars ($1,632) of the administrative penalty and Four Hundred Eight Dollars ($408) is deferred contingent upon the County'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 the County fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the County 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 the County 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 the County 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 operator of the Site, the County is alleged to have failed to dispose of municipal solid waste at an authorized facility, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on July 20, 2006. Specifically, the County dumped 97 cubic yards of municipal solid waste, including construction debris, concrete with rebar, brush, cardboard, lumber, insulation, plywood and scrap metal sheets, at an unauthorized disposal site.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the County pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the County'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: Maverick County, Docket No. 2006-1812-MSW-E" to:

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

2. It is further ordered that the County shall undertake the following technical requirements:

a. Immediately upon the effective date of this Agreed Order, cease disposing any additional waste at the Site, in accordance with 30 TEX. ADMIN. CODE § 330.15(c);

b. Within 90 days after the effective date of this Agreed Order, ensure that all unauthorized waste at the Site is removed and properly disposed of at a permitted municipal solid waste disposal facility, in accordance with 30 TEX. ADMIN. CODE § 330.15(c); and

c. Within 105 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. 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 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 149
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Laredo Regional Office
Texas Commission on Environmental Quality
1403 Seymour, Suite 2
Laredo, Texas 78040-8752

3. The provisions of this Agreed Order shall apply to and be binding upon the County. The County 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 the County 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, the County's failure to comply is not a violation of this Agreed Order. The County shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The County shall notify the Executive Director within seven days after the County 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 the County shall be made in writing to the Executive Director. Extensions are not effective until the County 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 the County 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 the County, or three days after the date on which the Commission mails notice of the Order to the County, 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

4/27/07
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.

Signature

12/18/06
Date

Jose Aranda
Name (Printed or typed)
Authorized Representative of
Maverick County

Honorable County Judge
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.