

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0191-MSW-E TCEQ ID: RN104789045 CASE NO.: 28386
RESPONDENT NAME: CASEY CROY

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: 2324 Farm-to-Market Road 2909, Hamilton, Hamilton County

TYPE OF OPERATION: unauthorized municipal-waste site

SMALL BUSINESS: Yes No

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

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 March 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Alfred Oloko, Litigation Division, MC R-12, (713) 422-8918; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Alison Echlin, Enforcement Coordinator, Enforcement Section III, MC 128, (512) 239-3308

TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 751-0335

Respondent: Mr. Casey Croy, 2324 Farm-to-Market Road 2905, Hamilton, Texas 76531

Respondent's Attorney: Not represented by counsel

**RESPONDENT'S NAME: CASEY CROY
DOCKET NO.: 2006-0191-MSW-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: November 2, 2005 and January 25, 2006</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: November 16, 2005 (NOV) and February 9, 2006 (NOE)</p> <p>Background Facts: The EDPRP in this was filed on September 29, 2006. The Respondent was served with the EDPRP on October 2, 2006. The Respondent failed to file an Answer to the EDPRP, hence this default.</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>Caused, suffered, allowed, or permitted the dumping or disposal of municipal solid waste without the written authorization of the TCEQ [30 TEX. ADMIN. CODE § 330.5(c) recodified effective March 27, 2006, as 30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p>Total Assessed: \$1,070</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$1,070 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 this proposed 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>The Respondent shall:</p> <ol style="list-style-type: none"> 1) Immediately, cease to cause, suffer, allow, or permit the disposal of any additional municipal solid waste at the Site. 2) Within 120 days, ensure that all unauthorized waste at the Site is properly disposed of at a permitted municipal solid waste disposal facility. 3) Within 135 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions above.

Penalty Calculation Worksheet (PCW)

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

DATES	Assigned	13-Feb-2006	Screening	17-Feb-2006	EPA Due	
	PCW	03-Apr-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Casey Croy
Reg. Ent. Ref. No.	RN104789045
Facility/Site Region	9-Waco <input type="text"/> Major/Minor Source <input type="text"/> Minor Source

CASE INFORMATION			
Enf./Case ID No.	28386	No. of Violations	1
Docket No.	2006-0191-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste <input type="text"/>	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 <input type="text"/> \$1,000												
ADJUSTMENTS (+/-) TO SUBTOTAL 1													
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>													
Compliance History	Subtotals 2, 3, & 7 <input type="text"/> \$70												
Notes	The Respondent received one NOV for the same or similar violation and one NOV for a dissimilar violation.												
Culpability	Subtotal 4 <input type="text"/> \$0												
Notes	The Respondent does not meet the culpability criteria.												
Good Faith Effort to Comply	Subtotal 5 <input type="text"/> \$0												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td>Before NOV</td> <td>NOV to EDRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with a small x)</td> </tr> </table>		Before NOV	NOV to EDRP/Settlement Offer	Extraordinary			Ordinary			N/A	x	(mark with a small x)	Notes: The Respondent is not yet in compliance.
	Before NOV	NOV to EDRP/Settlement Offer											
Extraordinary													
Ordinary													
N/A	x	(mark with a small x)											
Economic Benefit	Subtotal 6 <input type="text"/> \$0												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Total EB Amounts</td> <td style="text-align: right;">\$114</td> </tr> <tr> <td>Approx. Cost of Compliance</td> <td style="text-align: right;">\$2,294</td> </tr> </table>	Total EB Amounts	\$114	Approx. Cost of Compliance	\$2,294	<small>*Capped at the Total EB \$ Amount</small>								
Total EB Amounts	\$114												
Approx. Cost of Compliance	\$2,294												
SUM OF SUBTOTALS 1-7	Final Subtotal <input type="text"/> \$1,070												
OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment <input type="text"/> \$0												
<small>Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)</small>													
Notes													
	Final Penalty Amount <input type="text"/> \$1,070												
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty <input type="text"/> \$1,070												
DEFERRAL	Adjustment <input type="text"/> \$0												
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>													
Notes	No deferral is offered for non-expedited cases.												
PAYABLE PENALTY	<input type="text"/> \$1,070												

Screening Date 17-Feb-2006 **Docket No.** 2006-0191-MSW-E **PCW**
Respondent Casey Croy *Policy Revision 2 (September 2002)*
Case ID No. 28386 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN104789045
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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (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 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> **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 for the same or similar violation and one NOV for a dissimilar violation.

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

Screening Date	17-Feb-2006	Docket No.	2006-0191-MSW-E	PCW
Respondent	Casey Croy	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	28386	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN104789045			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Alison Echlin			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 330.5(c)			
Secondary Rule Cite(s)				
Violation Description	Failure to dispose of municipal solid waste at an authorized facility, as documented during an investigation conducted on January 25, 2006. Specifically, it was documented that the Respondent received approximately 138 cubic yards of construction debris.			
Base Penalty	\$10,000			

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

		Harm			
Release		Major	Moderate	Minor	
Actual				X	Percent 10%
Potential					

>> **Programmatic Matrix**

		Major	Moderate	Minor	
Falsification					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.				

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty \$1,000

One quarterly event is recommended from the January 25, 2006 investigation date to the February 17, 2006 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$114	Violation Final Penalty Total \$1,070
This violation Final Assessed Penalty (adjusted for limits) \$1,070	

Economic Benefit Worksheet

Respondent: Casey Croy
 Case ID No. 28386
 Reg. Ent. Reference No. RN104789045
 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
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$2,294	25-Jan-2006	24-Jan-2007	1.0	\$114	n/a	\$114
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 138 cubic yards of waste at a permitted municipal solid waste landfill at \$13 per cubic yard from the investigation date January 25, 2006 until the expected date of compliance January 24, 2007. Additionally, the cost includes \$500 for the use of equipment and personnel to load and haul the waste to a permitted municipal solid waste landfill.

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 \$2,294

TOTAL \$114

Compliance History

Customer/Respondent/Owner-Operator: CN602936163 CROY, CASEY Classification: AVERAGE Rating: 3.01
Regulated Entity: RN104789045 2324 FM 2905 Classification: AVERAGE BY Site Rating: 3.01
ID Number(s): DEFAULT
Location: 2324 FM 2905, HAMILTON, TX, 76531 Rating Date: 9/1/2005 Repeat Violator: NO
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: March 17, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 15, 2001 to February 15, 2006
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Alison Echlin Phone: 512-239-3308

Site Compliance History Components

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

1 02/10/2006 (453154)

2 12/14/2005 (440057)

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

Date: 11/16/2005 (436550)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.5(c)

Description: Failed to dispose municipal solid waste at an authorized site.

Date: 11/08/2005 (436534)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter B 111.201

Description: Failure to comply with the Outdoor Burning Rules of the State Of Texas.

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING CASEY CROY,
RN104789045**

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§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2006-0191-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 Casey Croy ("Mr. Croy").

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

FINDINGS OF FACT

1. Mr. Croy owns and operates an unauthorized municipal solid waste site located at 2324 Farm-to-Market Road 2909, Hamilton, Hamilton County, Texas (the "Site").
2. The Site involves the management and/or disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection on November 2, 2005, and a record review conducted on January 25, 2006, TCEQ Waco Regional Office investigators documented that Mr. Croy caused, suffered, allowed, or permitted the dumping or disposal of municipal solid waste without the written authorization of the Commission. Specifically, it was documented that Mr. Croy received, allowed or suffered the disposal of approximately 138 cubic yards of construction or demolition debris at the Site.
4. Mr Croy received notice of the violation on or about February 14, 2006.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement

Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Casey Croy” (the “EDPRP”) in the TCEQ Chief Clerk’s office on September 29, 2006.

6. By letter dated September 29, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Croy with notice of the EDPRP. According to the return receipt “green card”, Mr. Croy received notice of the EDPRP on October 2, 2006, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Croy received notice of the EDPRP, provided by the Executive Director. Mr. Croy 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. Croy 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. Croy caused, suffered, allowed, or permitted the dumping or disposal of municipal solid waste without the written authorization of the Commission, in violation of 30 TEX. ADMIN. CODE §330.5(c)¹.
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Croy with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Croy has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Croy and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Croy for violations of the Texas Water Code and the

¹ The provisions of 30 TEX. ADMIN. CODE §330.5(c) were recodified effective March 27, 2006, and can now be found in 30 TEX. ADMIN. CODE §330.15(c).

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.

6. An administrative penalty in the amount of one thousand seventy dollars (\$1070.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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. Croy is assessed an administrative penalty in the amount of one thousand seventy dollars (\$1070.00) for violations of TEX. HEALTH & SAFETY CODE ch. 361 and rules of the TCEQ. The payment of this administrative penalty and Mr. Croy's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Casey Croy; Docket No. 2006-0191-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. Croy shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. Croy shall cease to cause, suffer, allow, or permit the disposal of any additional municipal solid waste at the Site.

- b. Within 120 days after the effective date of this Order, Mr. Croy shall ensure that all unauthorized waste at this Site is properly disposed of at a permitted municipal solid waste disposal facility.
- c. Within 135 days after the effective date of this Order, Mr. Croy 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 13.a. and 13.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

and

Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

- 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. Croy. Mr. Croy 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. Croy 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. Croy's failure to comply is not a violation of this Order. Mr. Croy shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Croy shall notify the Executive Director within seven days after Mr. Croy 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. Croy shall be made in writing to the Executive Director. Extensions are not effective until Mr. Croy 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. Croy if the Executive Director determines that Mr. Croy has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

