

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1093-MSW-E TCEQ ID: RN104541560 CASE NO.: 34163**  
**RESPONDENT NAME: HERMAN HINSON AND MARY HINSON**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** Highway 327 to Fresenius Road, Left on Hickory Grove Cemetery Road, Kountze, Hardin County. Legal description of property: 1352/450 31 J Hill Parcel 31-101, Kountze, Hardin County

**TYPE OF OPERATION:** Unauthorized disposal site for municipal solid waste

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on July 7, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Clinton Sims, Waste Enforcement Section, MC 169, (512) 239-6933

**TCEQ Regional Contact:** Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 899-8705

**Respondent:** Mr. Herman Hinson and Ms. Mary Hinson, P.O. Box 1559, Kountze, Texas 77625

**Respondent's Attorney:** Mr. Russell J. Wright, Attorney, Wright & Wright Attorneys at Law, P.O. Box E, Silsbee, Texas 77656

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input checked="" type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 26, 2007</p> <p><b>Date of NOE Relating to this Case:</b> May 11, 2007</p> <p><b>Background Facts:</b></p> <p>The EDPRP was filed on September 28, 2007. The Respondents filed an answer to the EDPRP on October 12, 2007. The case was referred to SOAH on November 14, 2007. An evidentiary hearing was scheduled for May 8, 2008. On or about April 24, 2008, the Executive Director received a signed Agreed Order from the Respondents.</p> <p><b>Current Compliance Status:</b> Not in compliance</p> <p><b>MSW:</b></p> <p>Failed to properly dispose of municipal solid waste at an authorized facility [30 TEX. ADMIN. CODE § 330.15].</p>	<p><b>Total Assessed:</b> \$2,100</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$200/\$1,900</p> <p>The Respondent has paid \$200 of the administrative penalty. The remaining amount of \$1,900 shall be payable in 19 monthly payments of \$100 each.</p> <p><b>Site Compliance History Classification:</b></p> <p><input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b></p> <p><input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1) Immediately, cease disposing any additional waste at the site.</p> <p>2) Within 30 days, ensure that all authorized waste at the Site is removed and properly disposed of at an authorized facility.</p> <p>3) Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	14-May-2007	<b>Screening</b>	11-Jul-2007	<b>EPA Due</b>	
	<b>PCW</b>	11-Jul-2007				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Herman Hinson and Mary Hinson		
<b>Reg. Ent. Ref. No.</b>	RN104541560		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	34163	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2007-1093-MSW-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Enf. Coordinator</b>	Cynthia Mckaughan	
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 7	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$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** 5% Enhancement *Subtotals 2, 3, & 7* **\$100**

**Notes** There was one previous NOV for the 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 EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes** The Respondent does not meet the good faith criteria.

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

Total EB Amounts	\$205	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$4,160	

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$2,100**

**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* **\$2,100**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$2,100**

**DEFERRAL** 0% Reduction *Adjustment* **\$0**

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

**Notes**

Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$2,100**

Screening Date 11-Jul-2007

Docket No. 2007-1093-MSW-E

PCW

Respondent Herman Hinson and Mary Hinson

Policy Revision 2 (September 2002)

Case ID No. 34163

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104541560

Media [Statute] Municipal Solid Waste

Enf. Coordinator Cynthia McKaughan

**Compliance History Worksheet**

## &gt;&gt; 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)	1	5%
	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 submitted)	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) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

There was one previous NOV for the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

<b>Screening Date</b> 11-Jul-2007	<b>Docket No.</b> 2007-1093-MSW-E	<b>PCW</b>
<b>Respondent</b> Herman Hinson and Mary Hinson	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 34163	<i>PCW Revision June 26, 2007</i>	
<b>Reg. Ent. Reference No.</b> RN104541560		
<b>Media [Statute]</b> Municipal Solid Waste		
<b>Enf. Coordinator</b> Cynthia McKaughan		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 330.15(c)	
<b>Violation Description</b>	Failed to properly dispose of municipal solid waste at an authorized facility, as documented during an investigation conducted on February 26, 2007. Specifically, approximately 320 cubic yards of waste was disposed at the Site.	
<b>Base Penalty</b>		\$10,000

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

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="10%"/>	

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	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.				
<b>Adjustment</b>					\$9,000

\$1,000

**Violation Events**

<b>Number of Violation Events</b>	2		134	<b>Number of violation days</b>
<i>mark only one with an x</i>	daily	<input type="text"/>	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>	semiannual	<input type="text"/>
	annual	<input type="text"/>	single event	<input type="text"/>
				<b>Violation Base Penalty</b> <input type="text" value="\$2,000"/>
Two quarterly events are recommended from the investigation date (February 26, 2007) to the screening date (July 11, 2007).				

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$205"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,100"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,100"/>	

## Economic Benefit Worksheet

**Respondent:** Herman Hinson and Mary Hinson  
**Case ID No.:** 34163  
**Reg. Ent. Reference No.:** RN104541560  
**Media:** 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
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$4,160	26-Feb-2007	20-Feb-2008	1.0	\$205	n/a	\$205
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for removing approximately 320 cubic yards of municipal solid waste at \$13 per cubic yard. The Date Required is the date of the investigation and the Final Date is 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

\$4,160

**TOTAL**

\$205

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603207192 HINSON, HERMAN Classification: AVERAGE Rating: 1.00  
 Regulated Entity: RN104541560 HICKORY GROVE CEMETERY RD Classification: AVERAGE Site Rating: 1.  
 ID Number(s): MUNICIPAL SOLID WASTE NON ID NUMBER 455100055  
 Location: HWY 327 TO FRESENIUS RD, LEFT ON HICKORY GROVE CEMETERY ROAD; KOUNTZE, HARDIN COUNTY Rating Date: 9/1/2008 Repeat Violator: NO  
 TCEQ Region: REGION 10 - BEAUMONT  
 Date Compliance History Prepared: October 15, 2008  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: October 15, 2003 to October 15, 2008  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Clinton Sims Phone: (512) 239-6933

### Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
 N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
 N/A
- C. Chronic excessive emissions events.  
 N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |  |
|---|------------|----------|--|
| 1 | 05/11/2007 | (543490) |  |
|   | N/A        |          |  |
| 2 | 04/25/2008 | (640588) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |  |  |          |                          |
|--|--|----------|--------------------------|
|  | Date: 05/17/2005   | (375485) |                          |
|  | Self   | NO       | Classification: Moderate |
|  | Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)   |          |                          |
|  | Description: Failure to properly dispose of municipal solid waste at an authorized facility. |          |                          |
- 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.

CH 2

N/A

Sites Outside of Texas

N/A

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602789752 HINSON, MARY Classification: AVERAGE Rating: 1.00  
Regulated Entity: RN104541560 HICKORY GROVE CEMETERY RD Classification: AVERAGE Site Rating: 1.00  
ID Number(s): MUNICIPAL SOLID WASTE NON ID NUMBER 455100055  
Location: HWY 327 TO FRESENIUS ROAD, LEFT ON HICKORY GROVE CEMETERY RD; KOUNTZE, HARDIN COUNTY Rating Date: 9/1/2008 Repeat Violator: NO  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: October 15, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 15, 2003 to October 15, 2008

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

Name: Clinton Sims Phone: (512) 239-6933

## 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 05/11/2007 (543490)

N/A

2 04/25/2008 (640588)

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

Date: 05/17/2005 (375485)

N/A

Self NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Failure to properly dispose of municipal solid waste at an authorized facility.

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.

CH 1

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
HERMAN HINSON AND MARY  
HINSON; RN104541560

§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-1093-MSW-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Herman Hinson and Mary Hinson (the "Hinsons") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and the Hinsons, represented by Russell J. Wright, of the law firm Wright & Wright, Attorneys at Law, appear before the Commission and together stipulate that:

1. The Hinsons own approximately 13.48 acres of land located at HWY 327 to Fresenius Road, left on Hickory Grove Cemetery Road, Kountze, Hardin County, Texas (the "Site"). The legal description of the Site is 1352/450 Abstract Number 31 Jacob Hill League Parcel 31-101, Kountze, Hardin County, Texas.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and the Hinsons agree that the Commission has jurisdiction to enter this Agreed Order, and that the Hinsons are subject to the Commission's jurisdiction.
4. The Hinsons received notice of the violations alleged in Section II ("Allegations") on or about May 11, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Hinsons of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand One Hundred dollars (\$2,100.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Hinsons have paid Two Hundred dollars (\$200.00) of the administrative penalty. The remaining amount of One Thousand Nine Hundred dollars (\$1,900.00) of the administrative penalty shall be payable in nineteen (19) monthly payments of One Hundred dollars (\$100.00) 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 the Hinsons fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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 the Hinsons to meet the payment schedule of this Agreed Order constitutes the failure by the Hinsons to timely and satisfactorily comply with all of 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 the Hinsons 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 Hinsons have 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

The Hinsons are alleged to have violated 30 TEX. ADMIN. CODE § 330.15 by failing to properly dispose of municipal solid waste at an authorized facility as documented on February 26, 2007. Specifically, approximately 320 cubic yards of waste was disposed at the Site.

### III. DENIALS

The Hinsons generally deny the allegation in Section II ("Allegations").

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that the Hinsons pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Hinsons' 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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Herman Hinson and Mary Hinson, Docket No. 2007-1093-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. The Hinsons shall undertake the following technical requirements:
  - a. Immediately upon the effective date of the Commission Order, cease disposing any additional waste at the Site;
  - b. Within 30 days after the effective date of the Commission Order, ensure that all unauthorized waste at the Site is removed and properly disposed of at an authorized facility;
  - c. 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 No. 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 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Derek Eades, Waste Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway

3. The provisions of this Agreed Order shall apply to and be binding upon the Hinsons. The Hinsons are 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 Hinsons fail 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 Hinsons' failure to comply is not a violation of this Agreed Order. The Hinsons shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Hinsons shall notify the Executive Director within seven days after the Hinsons 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 Hinsons shall be made in writing to the Executive Director. Extensions are not effective until the Hinsons receive 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 Hinsons 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to the Hinsons, or three days after the date on which the Commission mails notice of the Order to the Hinsons, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Herman Hinson and Mary Hinson  
TCEQ Docket No. 2007-1093-MSW-E  
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*[Handwritten Signature]*

For the Executive Director

7/10/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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.

*[Handwritten Signature]*

Signature

4-23-08

Date

HERMAN HINSON

Name (Printed or typed)

Herman Hinson

Individual

Title

*[Handwritten Signature]*

Signature

4-23-08

Date

MARY HINSON

Name (Printed or typed)

Mary Hinson

Individual

Title