EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0481-MLM-E **TCEQ ID:** RN102761442 **CASE NO.:** 35579

RESPONDENT NAME: Kleberg County

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	X MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
X MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Kleberg County Citizen Collection Site, located at the intersection of Farm-to-Market Road 2619 and County Road 2130 East, Kleberg County

TYPE OF OPERATION: Citizen's collection station

SMALL BUSINESS: ___ Yes __X__ 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 November 3, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. John Shelton, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2563; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: The Honorable Pete De La Garza, County Judge, Kleberg County, P.O. Box 72, Kingsville, Texas 78363

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint X Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** January 8, 2008 and April 2, 2008 **Date of NOV/NOE Relating to this Case:** February 29, 2008 (NOE) **Background Facts:** This was a routine investigation and a records review. **WASTE/WATER** 1) Failure to operate the Site, as outlined in the Notice of Intent ("NOI") dated January 18, 2002. Specifically, the Respondent failed to provide for the collection of deposited waste on a scheduled basis, and failed to supervise the Site in order to maintain it in a sanitary condition. The Site was observed to be littered with approximately 345 cubic yards of municipal solid waste including household trash, white goods, furniture, brush and used tires [30 TEX. ADMIN. CODE § 330.15, 330.209(a), and 330.213(a)]. 2) Discharged wastewater into or adjacent to any water in the state without authorization. Specifically, on February 14, 2008, the Respondent was observed pumping wastewater from the Site into the ditch along County Road 2130 and on February 27, 2008, the Respondent was documented having discharged from February 18 to February 27, 2008, along the road at the end of County Road 2130 and County Road 1180 [TEX. WATER CODE § 26.121(a)(1)]. 3) Failure to pay Consolidated Water Quality fees and Water Master Assessment Fee/South Texas for TCEQ Financial Account Nos. 23004542 and 22500964 [30 TEX. ADMIN. CODE §§ 21.4 and 303.71 and TEX. WATER CODE § 5.702].	**Total Assessed:** $3,150 **Total Deferred:** $630 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $2,520 **Site Compliance History Classification** __ **High** X **Average** __ **Poor** **Person Compliance History Classification** __ **High** X **Average** __ **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: i. Cease accepting and processing any additional municipal solid waste until the Site is operated in accordance with the NOI dated January 18, 2002 and the response to the NOI from the Commission dated March 7, 2002, which incorporates 30 TEX. ADMIN. CODE §§ 330.15, 330.209 and 330.213; and ii. Cease all unauthorized discharges of wastewater from this Site. b. Within 30 days after the effective date of this Agreed Order: i. Submit payment for outstanding fees, including any associated penalties and interest; ii. Operate the Site in accordance with the NOI dated January 18, 2002 and the response to the NOI from the Commission dated March 7, 2002 which incorporates 30 TEX. ADMIN. CODE §§ 330.15, 330.209 and 330.213; or iii. In lieu of Ordering Provision b.ii, remove all municipal solid waste from the Site and dispose of it at an authorized facility. c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through b.iii. Additional ID No(s).: 22500964 and 23004542

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision February 29, 2008*

TCEQ

DATES					
Assigned	18-Mar-2008				
PCW	1-Apr-2008	Screening	19-Mar-2008	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Kleberg County		
Reg. Ent. Ref. No.	RN102761442		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35579	No. of Violations	3
Docket No.	2008-0481-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	John Shelton
Multi-Media	Water Quality	EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$3,000**

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* **$150**

Notes: The Respondent received one NOV with 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 x)

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

0% Enhancement* — *Subtotal 6* **$0**

Total EB Amounts	$3,346
Approx. Cost of Compliance	$5,509

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$3,150**

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$3,150**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$3,150**

DEFERRAL — 20% Reduction — *Adjustment* **-$630**

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 **$2,520**

Screening Date	19-Mar-2008	**Docket No.** 2008-0481-MLM-E	**PCW**
Respondent	Kleberg County		*Policy Revision 2 (September 2002)*
Case ID No.	35579		*PCW Revision February 29, 2008*
Reg. Ent. Reference No.	RN102761442		
Media [Statute]	Municipal Solid Waste		
Enf. Coordinator	John Shelton		

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*)	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%

>> 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 with same or similar violations.

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

PCW

Policy Revision 2 (September 2002)
PCW Revision February 29, 2008

Screening Date	19-Mar-2008
Docket No.	2008-0481-MLM-E
Respondent	Kleberg County
Case ID No.	35579
Reg. Ent. Reference No.	RN102761442
Media [Statute]	Municipal Solid Waste
Enf. Coordinator	John Shelton
Violation Number	1
Rule Cite(s)	30 Tex. Admin Code §§ 330.15, 330.209(a) and 330.213(a)
Violation Description	Failed to operate a citizen's collection station, located at the intersection of FM 2619 and CR 2130 East, as outlined in the Notice of Intent dated January 18, 2002, as documented during an investigation on January 8, 2008. Specifically, the Respondent failed to provide for the collection of deposited waste on a scheduled basis, and failed to supervise the site in order to maintain it in a sanitary condition. The site was observed to be littered with approximately 345 cubic yards of municipal solid waste including household trash, white goods, furniture, brush and used tires.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

$1,000

Violation Events

Number of Violation Events: 1

71 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event recommended from the January 18, 2008 investigation date to the March 19, 2008 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $106

Statutory Limit Test

Violation Final Penalty Total $1,050

This violation Final Assessed Penalty (adjusted for limits) $1,050

Economic Benefit Worksheet

Respondent Kleberg County
Case ID No. 35579
Reg. Ent. Reference No. RN102761442
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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				0.0	$0	n/a	$0
Remediation/Disposal	$2,269	8-Jan-2008	13-Dec-2008	0.9	$106	n/a	$106
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to transport and dispose of approximately 345 cubic yards of municipal solid waste to an authorized landfill. 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 $2,269

TOTAL $106

Screening Date 19-Mar-2008 **Docket No.** 2008-0481-MLM-E **PCW**

Respondent Kleberg County *Policy Revision 2 (September 2002)*

Case ID No. 35579 *PCW Revision February 29, 2008*

Reg. Ent. Reference No. RN102761442

Media [Statute] Municipal Solid Waste

Enf. Coordinator John Shelton

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1)

Violation Description Discharged wastewater into or adjacent to any water in the state without authorization, as documented on February 14, and February 27, 2008. Specifically, on February 14, 2008, Kleberg County was observed pumping wastewater from the Site into the ditch along County Road 2130 and on February 27, 2008, Kleberg County was documented having discharged from February 18 to February 27, 2008, along the road at the end of County Road 2130 and County Road 1180.

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 0%

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

$1,000

Violation Events

Number of Violation Events 2 | 13 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,000

Two single events are recommended based on the February 14, 2008 and the February 27, 2008 dates.

Economic Benefit (EB) for this violation

Estimated EB Amount $3,240

Statutory Limit Test

Violation Final Penalty Total $2,100

This violation Final Assessed Penalty (adjusted for limits) $2,100

Economic Benefit Worksheet

Respondent Kleberg County
Case ID No. 35579
Reg. Ent. Reference No. RN102761442
Media Municipal Solid Waste
Violation No. 2

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				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
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]	$3,240	14-Feb-2008	27-Feb-2008	0.0	$0	$3,240	$3,240
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to dispose of approximately 64,800 gallons of wastewater at an authorized disposal facility ($.05 per gallon). The Date Required is the beginning violation date and the Final Date is the date they ceased discharging.						

Approx. Cost of Compliance: $3,240

TOTAL: $3,240

Screening Date 19-Mar-2008 **Docket No.** 2008-0481-MLM-E **PCW**

Respondent Kleberg County *Policy Revision 2 (September 2002)*

Case ID No. 35579 *PCW Revision February 29, 2008*

Reg. Ent. Reference No. RN102761442

Media [Statute] Municipal Solid Waste

Enf. Coordinator John Shelton

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 21.4 and 303.71 and Tex. Water Code § 5.702

Violation Description Failed to pay Consolidated Water Quality fees and Water Master Assessment Fee/South Texas for TCEQ Financial Account Nos. 23004542 and 22500964, as documented during a record review conducted on April 2, 2008.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: No penalty is calculated for this violation.

Adjustment $10,000

$0

Violation Events

Number of Violation Events ____ Number of violation days ____

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $0

No penalty is recommended because penalty and interest will be assessed at the next billing cycle.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $0

This violation Final Assessed Penalty (adjusted for limits) $0

Economic Benefit Worksheet

Respondent Kleberg County
Case ID No. 35579
Reg. Ent. Reference No. RN102761442
Media Municipal Solid Waste
Violation No. 3

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				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	N/A						
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	N/A						

Approx. Cost of Compliance $0

TOTAL $0

Compliance History

Customer/Respondent/Owner-Operator:	CN600248702	Kleberg County	Classification: AVERAGE Rating: 2.42
Regulated Entity:	RN102761442	KLEBERG COUNTY CITIZEN COLLECTION SITE	Classification: AVERAGE Site Rating: 3.00

ID Number(s): AIR NEW SOURCE PERMITS PERMIT 51865

Location: INTERSECTION OF FM 2619 AND CR 2130 EAST

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: March 11, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 11, 2003 to March 11, 2008

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

Name: John Shelton Phone: (512) 239-2563

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 05/02/2007 (543353)
2 02/29/2008 (614112)

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

Date: 04/27/2007 (543353)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15
30 TAC Chapter 330, SubChapter E 330.209(a)
30 TAC Chapter 330, SubChapter E 330.213(a)

Description: Failure to operate a citizen's collection station in accordance with 30 TAC 330.213, 330.209, and 330.15, as outlined in the Notice of Intent dated January 18, 2002.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)

Description: Failure to obtain a scrap tire storage site registration.

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**
KLEBERG COUNTY	§	
RN102761442	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-0481-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Kleberg County ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 5, 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a citizen's collection station at the intersection of Farm-to-Market Road 2619 and County Road 2130 East in Kleberg 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. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

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

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2008.

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

6. An administrative penalty in the amount of Three Thousand One Hundred Fifty Dollars ($3,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Five Hundred Twenty Dollars ($2,520)

of the administrative penalty and Six Hundred Thirty Dollars ($630) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 Respondent 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to operate the Site, as outlined in the Notice of Intent dated January 18, 2002, in violation of 30 TEX. ADMIN. CODE §§ 330.15, 330.209(a) and 330.213(a), as documented during an investigation conducted on January 8, 2008. Specifically, the Respondent failed to provide for the collection of deposited waste on a scheduled basis, and failed to supervise the Site in order to maintain it in a sanitary condition. The Site was observed to be littered with approximately 345 cubic yards of municipal solid waste including household trash, white goods, furniture, brush and used tires.

2. Discharged wastewater into or adjacent to any water in the state without authorization, in violation of TEX. WATER CODE § 26.121(a)(1), as documented on February 14, and February 27, 2008. Specifically, on February 14, 2008, the Respondent was observed pumping wastewater from the Site into the ditch along County Road 2130 and on February 27, 2008, the Respondent was documented having discharged from February 18 to February 27, 2008, along the road at the end of County Road 2130 and County Road 1180.

3. Failed to pay Consolidated Water Quality fees and Water Master Assessment Fee/South Texas for TCEQ Financial Account Nos. 23004542 and 22500964, in violation of 30 TEX. ADMIN. CODE §§ 21.4, 303.71 and TEX. WATER CODE § 5.702, as documented during a record review conducted on April 2, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Kleberg County, Docket No. 2008-0481-MLM-E" to:

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

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

   a. Immediately upon the effective date of this Agreed Order:

      i. Cease accepting and processing any additional municipal solid waste until the Site is operated in accordance with the Notice of Intent dated January 18, 2002 and the response to the Notice of Intent from the Commission dated March 7, 2002 which incorporates 30 TEX. ADMIN. CODE §§ 330.15, 330.209 and 330.213; and

      ii. Cease all unauthorized discharges of wastewater from this Site.

   b. Within 30 days after the effective date of this Agreed Order:

      i. Submit payment for outstanding fees, including any associated penalties and interest with notation, "Kleberg County, Account Nos. 22500964 and 23004542", to the address listed in Ordering Provision 1, in accordance with 30 TEX. ADMIN. CODE §§ 21.4, 303.71 and TEX. WATER CODE § 5.702;

      ii. Operate the Site in accordance with the Notice of Intent dated January 18, 2002 and the response to the Notice of Intent from the Commission dated March 7,

2002 which incorporates 30 TEX. ADMIN. CODE §§ 330.15, 330.209 and 330.213; or

iii. In lieu of Ordering Provision No. 2.b.ii, remove all municipal solid waste from the Site and dispose of it 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 Nos. 2.a.i. through 2.b.iii. 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:

Waste Section, Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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

_____ 10/2/2008
For the Executive Director 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 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

_____ July 30, 2008
Signature Date

Pete De La Garza _____ County Judge _____
Name (Printed or typed) Title
Authorized Representative of
Kleberg County

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.