EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0713-MSW-E **TCEQ ID:** RN102327582 **CASE NO.:** 35818

RESPONDENT NAME: City of Laredo

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

SITE WHERE VIOLATION(S) OCCURRED: City of Laredo Landfill, 6912 State Highway 359, two miles east of the intersection of Loop 20 and State Highway 359, Laredo, Webb County

TYPE OF OPERATION: Type I municipal solid waste landfill

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 24, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Michael Graham, Enforcement Division, Enforcement Team 7, MC R-02, (806) 796-7635; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: The Honorable Raul Salinas, Mayor, City of Laredo, P.O. Box 1965, Laredo, Texas 78044-1965
Mr. Carlos Villarreal, City Manager, City of Laredo, P.O. Box 1965, Laredo, Texas 78044-1965
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 ___ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** March 17, 2008 **Date of NOV/NOE Relating to this Case:** March 25, 2008 (NOE) **Background Facts:** This was a routine investigation. **WASTE** Failure to provide daily cover to the working face of the landfill and failure to provide intermediate cover to the inactive portion of the landfill. Specifically, at the time of the investigation exposed waste was observed in the area which was to be covered daily as well as the inactive portion of the landfill [30 TEX. ADMIN. CODE §§ 330.121(a) and 330.165(a) and (c) and Municipal Solid Waste Permit No. 1693A].	**Total Assessed:** $2,625 **Total Deferred:** $525 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $2,100 **Site Compliance History Classification** ___ **High** _X_ **Average** ___ **Poor** **Person Compliance History Classification** ___ **High** _X_ **Average** ___ **Poor** **Major Source:** _X_ Yes ___ 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, begin applying daily cover to the working face of the landfill and intermediate cover to the inactive portion of the landfill in a manner in which no waste is exposed; and b. Within 15 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 Provision a.

Additional ID No(s).: 1693A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision March 8, 2008*

TCEQ

DATES					
Assigned	31-Mar-2008				
PCW	29-Apr-2008	Screening	29-Apr-2008	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Laredo		
Reg. Ent. Ref. No.	RN102327582		
Facility/Site Region	16-Laredo	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	35818	No. of Violations	1
Docket No.	2008-0713-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Colin Barth
Multi-Media		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*	$2,500
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*	$125

Notes: The Respondent has one NOV for same or similar violations at this site within the past five years.

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.

	50% Enhancement*	*Subtotal 6*	$1,250

Total EB Amounts $65,262
Approx. Cost of Compliance $62,049
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7		*Final Subtotal*	$3,875
OTHER FACTORS AS JUSTICE MAY REQUIRE	-32%	*Adjustment*	-$1,250

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction to remove Economic Benefit enhancement.

Final Penalty Amount	$2,625
Final Assessed Penalty	$2,625

DEFERRAL	20%	Reduction	*Adjustment*	-$525

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	$2,100

Screening Date	29-Apr-2008	**Docket No.** 2008-0713-MSW-E	**PCW**
Respondent	City of Laredo		*Policy Revision 2 (September 2002)*
Case ID No.	35818		*PCW Revision March 8, 2008*
Reg. Ent. Reference No.	RN102327582		
Media [Statute]	Municipal Solid Waste		
Enf. Coordinator	Colin Barth		

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 has one NOV for same or similar violations at this site within the past five years.

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

Screening Date 29-Apr-2008 **Docket No.** 2008-0713-MSW-E **PCW**

Respondent City of Laredo *Policy Revision 2 (September 2002)*

Case ID No. 35818 *PCW Revision March 8, 2008*

Reg. Ent. Reference No. RN102327582

Media [Statute] Municipal Solid Waste

Enf. Coordinator Colin Barth

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 330.121(a) and 330.165(a) and (c), and Municipal Solid Waste Permit No. 1693A

Violation Description Failed to provide daily cover to the working face of the landfill and failed to provide intermediate cover to the inactive portion of the landfill, as documented during an investigation conducted on March 17, 2008. Specifically, at the time of the investigation exposed waste was observed in the area which was to be covered daily as well as the inactive portion of the landfill.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or environment will or could be exposed to significant amounts of pollutants as a result of this violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1 — 43 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quarterly event is recommended from the investigation date of March 17, 2008 to the screening date April 29, 2008.

Economic Benefit (EB) for this violation

Estimated EB Amount $65,262

Statutory Limit Test

Violation Final Penalty Total $2,625

This violation Final Assessed Penalty (adjusted for limits) $2,625

Economic Benefit Worksheet

Respondent City of Laredo
Case ID No. 35818
Reg. Ent. Reference No. RN102327582
Media 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				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]				0.0	$0	$0	$0
Other (as needed)	$62,049	17-Mar-2008	29-Apr-2008	1.0	$3,213	$62,049	$65,262
Notes for AVOIDED costs	Estimated cost of applying daily and intermediate cover to the required portions of the landfill in a manner in which no waste is exposed. The Date Required is the investigation date and the Final Date is the screening date.						

Approx. Cost of Compliance $62,049 **TOTAL** $65,262

Compliance History

Customer/Respondent/Owner-Operator:	CN600131908	City of Laredo	Classification: AVERAGE	Rating: 1.90
Regulated Entity:	RN102327582	CITY OF LAREDO LANDFILL	Classification: AVERAGE	Site Rating: 1.90

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	WE0264D
AIR OPERATING PERMITS	PERMIT	2371
MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	1693A
AIR NEW SOURCE PERMITS	AFS NUM	4847900641
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	WE0264D
AIR NEW SOURCE PERMITS	REGISTRATION	80765

Location: 2 MILES EAST OF INTERSECTION OF LOOP 20 AND STATE HIGHWAY 359. 6912 STATE HIGHWAY 359 LAREDO TX 78044

Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 16 - LAREDO

Date Compliance History Prepared: April 23, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 23, 2003 to April 23, 2008

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

Name: Colin Barth Phone: 512 239 0086

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 04/15/2004 (269002)

N/A

2 08/02/2005 (399502)
3 06/05/2006 (461097)
4 07/31/2006 (489472)
5 07/31/2006 (483612)
6 01/31/2007 (533519)
7 07/02/2007 (560445)
8 08/16/2007 (563151)
9 12/17/2007 (598247)
10 02/13/2008 (609025)
11 03/25/2008 (640062)

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

Date: 08/13/2007 (563151)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 330, SubChapter F 330.111

Rqmt Prov: OP SOP Section 1.11

Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other

documents and plans in the operating record. Each section of the SOP that was violated will be included with the description of the section and investigation findings, and the applicable reference to the 330 rules is also included.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 330, SubChapter F 330.111
Rqmt Prov: OP SOP Section 1.12
Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 330, SubChapter F 330.111
Rqmt Prov: OP SOP Section 1.15
Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.111
Rqmt Prov: OP SOP Section 1.25
Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.111
Rqmt Prov: OP SOP Section 1.25.2
Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.111
Rqmt Prov: OP SOP Section 1.25.4
Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.111
Rqmt Prov: OP SOP Section 1.6
Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.111
Rqmt Prov: OP Scrap Tire Shredder OP Section 5.0
Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 330, SubChapter F 330.111
Rqmt Prov: OP Scrap Tire Shredder OP Section 8.0
Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

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**
CITY OF LAREDO	§	
RN102327582	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-0713-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 the City of Laredo ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a Type I municipal solid waste landfill at 6912 State Highway 359, two miles east of the intersection of Loop 20 and State Highway 359, in Laredo, Webb County, Texas (the "Facility").

2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

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

4. The City received notice of the violations alleged in Section II ("Allegations") on or about March 30, 2008.

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

6. An administrative penalty in the amount of Two Thousand Six Hundred Twenty-Five Dollars ($2,625) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The City has paid Two Thousand One Hundred Dollars ($2,100) of the administrative penalty and Five Hundred Twenty-Five Dollars ($525) is deferred contingent upon the City'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 City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City 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 City 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 City 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 Facility, the City is alleged to have failed to provide daily cover to the working face of the landfill and failed to provide intermediate cover to the inactive portion of the landfill, in violation of 30 TEX. ADMIN. CODE §§ 330.121(a) and 330.165(a) and (c), and Municipal Solid Waste Permit No. 1693A, as documented during an investigation conducted on March 17, 2008. Specifically, at the time of the investigation exposed waste was observed in the area which was to be covered daily as well as the inactive portion of the landfill.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City'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: City of Laredo, Docket No. 2008-0713-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 City shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order, begin applying daily cover to the working face of the landfill and intermediate cover to the inactive portion of the landfill in a manner in which no waste is exposed, in accordance with 30 TEX. ADMIN. CODE §§ 330.121(a) and 330.165(a) and (c), and Municipal Solid Waste Permit No. 1693A; and

   b. Within 15 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.a.

   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
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

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

_____ 10/16/2008
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.

_____ OKgmo 09/03/2008
Signature Date

Carlos Villarreal **City Manager**
Name (Printed or typed) Title
Authorized Representative of
City of Laredo

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.