

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1216-MSW-E TCEQ ID NO.: RN102119120 CASE NO.: 31443
RESPONDENT NAME: STARR COUNTY

ORDER TYPE:		
<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	
CASE TYPE:		
<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: 4.3 miles north of the intersection of U.S. Highway 83 and U.S. Highway 755, Rio Grande, Starr County

TYPE OF OPERATION: Type I Arid-Exempt municipal solid waste landfill

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There are no other 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 January 28, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ SEP Coordinator: Ms Sharon Blue, Litigation Division, MC 175, (512) 239-2223

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

TCEQ Regional Contact: Mr. David Ramirez, Harlingen Regional Office, MC R-15, (956) 430-6048

Respondent: The Honorable Eloy Vera, County Judge, Starr County, 401 North Britton Avenue, Room 203, Rio Grande City, Texas 78582

Respondent's Attorney: Mr. Victor Canales, Jr., Attorney, Starr County Office of County Attorney, 401 North Britton Avenue, Rio Grande City, Texas 78582

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: April 7, 2006</p> <p>Dates of NOV/NOEs Relating to this Case: July 26, 2006 (NOE)</p> <p>Background Facts:</p> <p>On June 19, 2007, the Executive Director filed the EDPRP against Starr County. The Respondent filed an answer to the EDPRP requesting a hearing on July 23, 2007. TCEQ referred this case to SOAH on August 24, 2007. An evidentiary hearing was scheduled. The TCEQ and the Respondent reached an agreement and the agency received a signed Agreed Order with an SEP on December 6, 2007.</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>1. Failed to provide intermediate or final cover of not less than 12 inches for all areas of waste that have received waste but will be inactive for longer than 180 days [30 TEX. ADMIN. CODE § 330.165(c)].</p> <p>2. Failed to control public access to the Facility by means of artificial/natural barriers, appropriate to protect human health and safety and the environment [30 TEX. ADMIN. CODE § 330.131].</p> <p>3. Failed to prohibit the disposal of whole scrap tires [30 TEX. ADMIN. CODE § 330.15(e)(4)].</p> <p>4. Failed to maintain and/or operate the working face of the landfill in a manner to control windblown solid waste [30 TEX. ADMIN. CODE § 330.139(2)].</p>	<p>Total Assessed: \$22,960</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$22,960</p> <p>Total Paid to General Revenue: \$0</p> <p>The administrative penalty of \$22,960 shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken</p> <p>1. Encouraged citizens hauling waste to the Facility to secure their loads by placing an advertisement in the May 17, 2006 edition of the Starr County Town Crier referencing 30 TEX. ADMIN. CODE § 330.145 (pertaining to vehicles covering their waste and tying brush down) and posted a sign on April 24, 2006 at the entrance of the Facility stating that "All vehicles must have their waste covered, brush must be tied down"; and</p> <p>2. Posted a sign On April 24, 2006, in the white goods/large item salvage area stating "Steel Recycling Material Only/No Trash".</p> <p>Ordering Provisions</p> <p>The Respondent shall implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Immediately:</p> <p>a. Begin to maintain and operate the working face of the landfill in a manner to control windblown solid waste; and</p> <p>b. Begin ensuring that all waste is unloaded in authorized areas and that waste deposited in unauthorized areas is removed immediately and disposed of properly.</p> <p>2. Within 30 days:</p> <p>a. Provide intermediate or final cover for all areas of the Facility that have received waste, but will be inactive for more than 180 days;</p> <p>b. Begin disposing of whole scrap tires at an authorized facility;</p> <p>c. Begin controlling public access to the Facility by means of artificial and/or natural barriers; and</p> <p>d. Install facility boundary, easement, and right-of-way markers.</p> <p>3. Within 45 days, submit written, notarized certification and include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with the above Ordering Provisions.</p>

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to prevent the unloading of waste in unauthorized areas and by failing to ensure that any waste deposited in an unauthorized area is removed immediately and disposed of properly [30 TEX. ADMIN. CODE § 330.225(b)].</p> <p>6. Failed to properly designate a large-item salvage area [30 TEX. ADMIN. CODE § 330.147(a)].</p> <p>7. Failed to ensure that all markers shall be posts extending six feet above ground level, by failing to install facility boundary markers, and by failing to install easement and right-of-way markers [30 TEX. ADMIN. CODE § 330.143(b)(1), (b)(1)(A), and (b)(1)(C)].</p> <p>8. Failed to take actions to encourage vehicles hauling waste to the Facility to be enclosed or provided with a tarpaulin/net or other means to effectively secure the load in order to prevent the escape of any part of the load [30 TEX. ADMIN. CODE § 330.145].</p>		



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	24-Jul-2006	Screening	05-Oct-2006	EPA Due	
	PCW	05-Apr-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Starr County
Reg. Ent. Ref. No.	RN102119120
Facility/Site Region	15-Harlingen
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	31443	No. of Violations	8
Docket No.	2006-1216-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Mike Limos
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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 12% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$367"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$5,700"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 05-Oct-2006

Docket No. 2006-1216-MSW-E

PCW

Respondent Starr County

Policy Revision 2 (September 2002)

Case ID No. 31443

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102119120

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

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>)	2	10%
	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) 12%

>> 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: Enhancement for two NOVs with same or similar violations and one NOV for other violations at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date 05-Oct-2006

Docket No. 2006-1216-MSW-E

PCW

Respondent Starr County

Policy Revision 2 (September 2002)

Case ID No. 31443

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102119120

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to provide intermediate or final cover of not less than 12 inches for all areas of waste that have received waste but will be inactive for longer than 180 days, as documented during an investigation conducted on April 7, 2006. Specifically, less than 12 inches of suitable earthen cover was documented as waste was observed protruding through the intermediate cover in the northeast corner, north section, west section, and area between the working face and west section of the landfill.

Base Penalty

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>				

Matrix Notes

Human health or the environment will or could be exposed to an insignificant amount of pollutants which would not exceed protective levels as a result of the violation.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Two quarterly events are recommended from the April 7, 2006 investigation to the October 5, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Starr County
 Case ID No. 31443
 Reg. Ent. Reference No. RN102119120
 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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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	\$1,200	07-Apr-2006	02-Jun-2007	1.2	\$5	\$92	\$97
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: Estimated cost to provide intermediate or final cover of at least 12 inches for all areas of the landfill that have received waste but will be inactive for longer than 180 days calculated from the investigation date to the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$1,200

TOTAL \$97

Screening Date 05-Oct-2006

Docket No. 2006-1216-MSW-E

PCW

Respondent Starr County

Policy Revision 2 (September 2002)

Case ID No. 31443

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102119120

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to control public access to the facility by means of artificial/natural barriers, appropriate to protect human health and safety and the environment, as documented during an investigation conducted on April 7, 2006. Specifically, the perimeter fencing was documented to be in disrepair along the north and west boundaries of the facility. The perimeter fence was also in disrepair at the grid "H" marker of the facility.

Base Penalty

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

		Harm		
Release		Major	Moderate	Minor
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Human health or the environment could be exposed to an insignificant amount of pollutants which would not exceed protective levels as a result of the violation.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Starr County
 Case ID No. 31443
 Reg. Ent. Reference No. RN102119120
 Media [Statute] Municipal Solid Waste
 Violation No. 2

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
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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	\$1,000	07-Apr-2006	02-Jun-2007	1.2	\$4	\$77	\$81
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

Estimated cost to repair fencing calculated from the investigation date to the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$81

Screening Date 05-Oct-2006

Docket No. 2006-1216-MSW-E

PCW

Respondent Starr County

Policy Revision 2 (September 2002)

Case ID No. 31443

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102119120

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to prohibit disposal of whole scrap tires, as documented during an investigation conducted on April 7, 2006. Specifically, whole scrap tires were observed protruding through the intermediate cover in the west section of the facility and also in the working face of the landfill.

Base Penalty

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Human health or the environment could be exposed to a significant amount of pollutants which would not exceed protective levels as a result of the violation.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Two quarterly events are recommended from the April 7, 2006 investigation to the October 5, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Starr County
 Case ID No. 31443
 Reg. Ent. Reference No. RN102119120
 Media [Statute] 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
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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				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	07-Apr-2006	02-Jun-2007	1.2	\$29	n/a	\$29

Notes for DELAYED costs: Estimated cost to prevent the disposal of whole scrap tires at the landfill calculated from the investigation date to the projected 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 **\$500** TOTAL **\$29**

Screening Date 05-Oct-2006

Docket No. 2006-1216-MSW-E

PCW

Respondent Starr County

Policy Revision 2 (September 2002)

Case ID No. 31443

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102119120

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to maintain/operate the working face of the landfill in a manner to control windblown solid waste, as documented during an investigation conducted on April 7, 2006. Specifically, windblown litter was observed along the fence line at the facility and it did not appear that these materials were being picked up daily and returned to the working face of the landfill.

Base Penalty

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

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

>> **Programmatic Matrix**

		Major	Moderate	Minor	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes

Human health or the environment could be exposed to an insignificant amount of pollutants which would not exceed protective levels as a result of the violation.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Starr County
 Case ID No. 31443
 Reg. Ent. Reference No. RN102119120
 Media [Statute] Municipal Solid Waste
 Violation No. 4

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	\$300	07-Apr-2006	02-Jun-2007	1.2	\$17	n/a	\$17
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to maintain/operate the working face of the landfill in a manner to control windblown solid waste calculated from the investigation date to the projected date of compliance.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Item	Cost	Date	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 TOTAL

Screening Date 05-Oct-2006

Docket No. 2006-1216-MSW-E

PCW

Respondent Starr County

Policy Revision 2 (September 2002)

Case ID No. 31443

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102119120

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to prevent the unloading of waste in unauthorized areas and failed to ensure that any waste deposited in an unauthorized area is removed immediately and disposed of properly, as documented during an investigation conducted on April 7, 2006. Specifically, a separate white goods (household appliances) area was being maintained for recycling and other waste, such as wood, plastic pieces, scrap tires, construction and demolition debris, and brush was observed to be commingled with the white goods.

Base Penalty

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes

Human health or the environment will or could be exposed to an insignificant amount of pollutants which would not exceed protective levels as a result of the violation.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Starr County
 Case ID No. 31443
 Reg. Ent. Reference No. RN102119120
 Media [Statute] Municipal Solid Waste
 Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	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	\$1,000	07-Apr-2006	02-Jun-2007	1.2	\$58	n/a	\$58
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to prevent the unloading of waste in unauthorized areas and to properly dispose of the waste calculated from the investigation date to the projected date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$1,000**

TOTAL \$58

Screening Date 05-Oct-2006	Docket No. 2006-1216-MSW-E	PCW
Respondent Starr County		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 31443		<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No. RN102119120		
Media [Statute] Municipal Solid Waste		
Enf. Coordinator Mike Limos		
Violation Number	6	
Primary Rule Cite(s)	30 Tex. Admin. Code § 330.147(a)	
Secondary Rule Cite(s)		

Violation Description
 Failed to properly designate a large-item salvage area, as documented during an investigation conducted on April 7, 2006. Specifically, signs were not located in the white goods area of the landfill to indicate it as a separate area for these items.

Base Penalty \$10,000

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

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
	X			Percent 25%

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

	daily	
	monthly	
<i>mark only one</i>	quarterly	
<i>use a small x</i>	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,800

This violation Final Assessed Penalty (adjusted for limits) \$2,800

Economic Benefit Worksheet

Respondent Starr County
Case ID No. 31443
Reg. Ent. Reference No. RN102119120
Media [Statute] Municipal Solid Waste
Violation No. 6

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)	\$200	07-Apr-2006	24-Apr-2006	0.0	\$0	\$1	\$1
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

Estimated cost to provide the required signage for the large-item salvage area calculated from the investigation date to the compliance date.

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 \$200

TOTAL \$1

Screening Date 05-Oct-2006 **Docket No.** 2006-1216-MSW-E **PCW**
Respondent Starr County *Policy Revision 2 (September 2002)*
Case ID No. 31443 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102119120
Media [Statute] Municipal Solid Waste
Enf. Coordinator Mike Limos
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)

Violation Description

Failed to ensure that all markers shall be posts extending six feet above ground level, failed to install facility boundary markers and failed to install easement and right-of-way markers, as documented during an investigation conducted on April 7, 2006. Specifically, the yellow buffer markers were not at least six feet above ground level, and black boundary markers, green easement and right-of-way markers were not observed at the facility. Additionally, an easement marker was observed within the facility, however it was colored black instead of green.

Base Penalty

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Starr County
 Case ID No. 31443
 Reg. Ent. Reference No. RN102119120
 Media [Statute] Municipal Solid Waste
 Violation No. 7

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	\$1,000	07-Apr-2006	02-Jun-2007	1.2	\$4	\$77	\$81
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

Estimated cost to properly install boundary, buffer, easement and right-of-way markers calculated from the investigation date to the projected 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

TOTAL

Screening Date 05-Oct-2006	Docket No. 2006-1216-MSW-E	PCW
Respondent Starr County		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 31443		<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No. RN102119120		
Media [Statute] Municipal Solid Waste		
Enf. Coordinator Mike Limos		
Violation Number <input type="text" value="8"/>		
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 330.145"/>	
Secondary Rule Cite(s)	<input type="text"/>	

Violation Description
 Failed to take actions to encourage vehicles hauling waste to the facility to be enclosed or provided with a tarpaulin/net or other means to effectively secure the load in order to prevent the escape of any part of the load, as documented during an investigation conducted on April 7, 2006. Specifically, a sign indicating that all incoming loads shall be covered was not observed at the facility.

Base Penalty

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

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		X	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Starr County
Case ID No. 31443
Reg. Ent. Reference No. RN102119120
Media [Statute] Municipal Solid Waste
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	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)	\$500	07-Apr-2006	17-May-2006	0.1	\$0	\$4	\$4
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: Estimated cost to take actions to encourage vehicles hauling waste to the facility to be enclosed or provided with a tarpaulin/net to secure the load calculated from the investigation date to the compliance date.

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 \$500 TOTAL \$4

Compliance History

Customer/Respondent/Owner-Operator:	CN601141146 Starr County	Classification: AVERAGE	Rating: 4.11
Regulated Entity:	RN102119120 STARR COUNTY LANDFILL	Classification: AVERAGE	Site Rating: 6.33
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL PERMIT	1762	
Location:	4.3 MILES N OF INTERSECTION OF US HIGHWAY 83 AND US HIGHWAY 755 IN RIO GRANDE CITY	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	RÉGION 15 - HARLINGEN		
Date Compliance History Prepared:	October 23, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 23, 2001 to October 23, 2006		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Mike Limos	Phone:	512.239.5839

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? | Yes |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | <u>Yzaguirre Marie Elaine and Hector</u> |
| 5. When did the change(s) in ownership occur? | <u>02/10/2003</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 | 12/22/2003 | (254766) |
| 2 | 07/20/2006 | (486955) |
| 3 | 02/25/2005 | (346677) |
| 4 | 08/20/2003 | (150850) |
| 5 | 03/05/2004 | (261816) |

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

- | | | | |
|--------------|--|----------|--------------------------|
| Date: | 10/22/2003 | (254766) | |
| Self Report? | NO | | Classification: Moderate |
| Rqmt Prov: | PERMIT IA | | |
| Description: | Failure to prevent the unauthorized discharge of a regulated substance and prevent the violation of the no exposure exclusion. | | |
| Date: | 02/25/2005 | (346677) | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 330, SubChapter F 330.114(6) | | |
| Description: | Failure to have fire training every six months as stated in the Site Operating Plan. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 330, SubChapter A 330.5[G] | | |
| Description: | Failure to prohibit the disposing of items containing chlorinated fluorocarbon | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 330, SubChapter F 330.116 | | |
| Description: | Failure to have adequate vector control. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 330, SubChapter F 330.133(b) | | |

Description: Failure to have intermediate cover free of mixed waste.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 328, SubChapter C 328.13(a)(1)

Description: Failure to remove lead-acid batteries from the working face.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 328, SubChapter F 328.54(c)

Date: 12/12/2003 (253891)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter E 330.55(b)(6)

Description: Failure to handle, store, treat, and dispose of surface ground water that has become contaminated by contact with the working face of the landfill or leachate.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 330, SubChapter F 330.123

Description: Failure to ensure that vehicles hauling waste to this site are enclosed or provided with a tarpaulin, net, or other means to properly secure the load in order to prevent the escape of any part of the load by blowing or spilling. The owner/operator shall take actions such as posting signs, reporting offenders to proper
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 330, SubChapter F 330.125(b)

Description: Failure to control any ponded water at the site to avoid its becoming a nuisance. In the event objectionable odors do occur, appropriate measures shall be taken to alleviate the condition.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter F 330.126

Description: Failure of the site operator to take the appropriate steps to prevent and control on-site populations of disease vectors using proper compaction and daily cover procedures, and the use of other approved methods when needed.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter F 330.132

Description: Failure to ensure that solid waste is spread and compacted by repeated passages of suitable compaction equipment such that each layer of solid waste is thoroughly compacted.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter F 330.133(a)

Description: Failure to apply at least six (6) inches of well-compacted earthen material at the end of each operating day.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter F 330.133(f)

Description: Failure to repair final or intermediate cover, caused by erosion, promptly by restoring the cover material, grading, compacting, and seeding it as necessary. Such periodic inspections and restorations are required during the entire operational life and for the post-closure maintenance period.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter F 330.133(g)

Description: Failure to specify the date cover (no exposed waste) was accomplished, how it was accomplished, and the last area covered. This applies to daily, intermediate, and alternate daily cover. For final cover, this log shall specify the area covered, the date cover was applied, and the thickness applied that date. Each ent
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter F 330.134

Description: Failure to prevent the ponding of water over waste, regardless of its origin.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter F 330.139

Description: Failure to prevent the discharge of contaminated water without specific written authorization.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter F 330.136(b)(2)

Description: Failure, upon the acceptance of dead animals and/or slaughterhouse waste, to cover the waste with three feet of other solid waste or at least two (2) feet of soil immediately upon receipt.

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
STARR COUNTY;
RN102119120

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-1216-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 Starr County ("the County") 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 County, represented by Victor Canales, Jr. of the Starr County Office of County Attorney, appear before the Commission and together stipulate that:

1. The County owns and operates a Type I Arid-Exempt municipal solid waste landfill located 4.3 miles north of the intersection of U.S. Highway 83 and U.S. Highway 755 in Rio Grande City, Starr County, Texas (the "Facility").
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 County agree that the Commission has jurisdiction to enter this Agreed Order, and that the County is subject to the Commission's jurisdiction.
4. The County received notice of the violations alleged in Section II ("Allegations") on or about July 26, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the County of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of twenty-two thousand nine hundred sixty dollars (\$22,960.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Twenty-two thousand nine hundred sixty dollars (\$22,960.00) of the administrative penalty shall be conditionally offset by the County's completion of a Supplemental Environmental Project ("SEP") as defined in Attachment A, incorporated herein by reference. The County's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the County have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Starr County submitted documentation on August 10, 2006 to demonstrate that the following corrective measures were implemented at the Facility:
 - a. Encouraged citizens hauling waste to the Facility to secure their loads by placing an advertisement in the May 17, 2006 edition of the Starr County Town Crier referencing 30 TEX. ADMIN. CODE § 330.145 (pertaining to vehicles covering their waste and tying brush down) and posted a sign on April 24, 2006 at the entrance of the Facility stating that "All vehicles must have their waste covered, brush must be tied down;" and
 - b. Posted a sign On April 24, 2006, in the white goods/large item salvage area stating "Steel Recycling Material Only/No Trash."
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the County has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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

1. The County is alleged to have violated:
 - a. 30 TEX. ADMIN. CODE § 330.165(c) by failing to provide intermediate or final cover of not less than 12 inches for all areas of waste that have received waste but will be inactive for longer than 180 days, as documented during an investigation conducted on April 7, 2006. Specifically, less than 12 inches of suitable earthen cover was documented as waste was observed protruding through the intermediate cover in the northeast corner, north section, west section, and area between the working face and west section of the landfill.
 - b. 30 TEX. ADMIN. CODE § 330.131 by failing to control public access to the Facility by means of artificial/natural barriers, appropriate to protect human health and safety and the environment, as documented during an investigation conducted on April 7, 2006. Specifically, the perimeter fencing was documented to be in disrepair along the north and west boundaries and at the grid "H" marker of the Facility.
 - c. 30 TEX. ADMIN. CODE § 330.15(e)(4) by failing to prohibit the disposal of whole scrap tires, as documented during an investigation conducted on April 7, 2006. Specifically, whole scrap tires were observed protruding through the intermediate cover in the west section and the working face of the landfill.
 - d. 30 TEX. ADMIN. CODE § 330.139(2) by failing to maintain and/or operate the working face of the landfill in a manner to control windblown solid waste, as documented during an investigation conducted on April 7, 2006. Specifically, windblown litter was observed along the fence line at the Facility and it did not appear that these materials were being picked up daily and returned to the working face of the landfill.
 - e. 30 TEX. ADMIN. CODE § 330.225(b) by failing to prevent the unloading of waste in unauthorized areas and by failing to ensure that any waste deposited in an unauthorized area is removed immediately and disposed of properly, as documented during an investigation conducted on April 7, 2006. Specifically, a separate white goods (household appliances) area was being maintained for recycling and other waste, such as wood, plastic pieces, scrap tires, construction and demolition debris, and brush was observed to be commingled with the white goods.

- ~~f. 30 TEX. ADMIN. CODE § 330.147(a) by failing to properly designate a large-item salvage area, as documented during an investigation conducted on April 7, 2006. Specifically, signs were not located in the white goods area of the landfill to indicate it as a separate area for these items.~~
- g. 30 TEX. ADMIN. CODE § 330.143(b)(1), (b)(1)(A), and (b)(1)(C) by failing to ensure that all markers shall be posts extending six feet above ground level, by failing to install facility boundary markers, and by failing to install easement and right-of-way markers, as documented during an investigation conducted on April 7, 2006. Specifically, the yellow buffer markers were not at least six feet above ground level, and black boundary markers, green easement and right-of-way markers were not observed at the Facility. Additionally, an easement marker was observed within the Facility, however it was colored black instead of green.
- h. 30 TEX. ADMIN. CODE § 330.145 by failing to take actions to encourage vehicles hauling waste to the Facility to be enclosed or provided with a tarpaulin/net or other means to effectively secure the load in order to prevent the escape of any part of the load, as documented during an investigation conducted on April 7, 2006. Specifically, a sign indicating that all incoming loads shall be covered was not observed at the Facility.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that the County pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and the County’s compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Twenty-two thousand nine hundred sixty dollars (\$22,960.00) of the assessed administrative penalty shall be conditionally offset by Starr County’s completion of a Supplemental Environmental Project (“SEP”). Any administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Starr County, Docket No. 2006-1216-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 County shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, twenty-two thousand nine hundred sixty dollars (\$22,960.00) of the assessed administrative penalty shall be offset with the condition that the County implement and complete the SEP pursuant to the terms of the SEP as defined in Attachment A, incorporated herein by reference. The County's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. Administrative penalty payments for any portion of the administrative penalty not offset by a SEP or for any portion of the SEP deemed by the Executive Director as not complete shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Starr County, Docket No. 2006-1216-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

4. It is further ordered that the County shall undertake the following technical requirements:
 - a. Immediately upon the effective date of the Commission Order the County shall:
 - i. Begin to maintain and operate the working face of the landfill in a manner to control windblown solid waste, in accordance with 30 TEX. ADMIN. CODE § 330.139(2);
 - ii. Begin ensuring that all waste is unloaded in authorized areas and that waste deposited in unauthorized areas is removed immediately and disposed of properly, in accordance with 30 TEX. ADMIN. CODE § 330.225(b);
 - b. Within 30 days after the effective date of the Commission Order, the County shall:

- i. Provide intermediate or final cover for all areas of the Facility that have received waste, but will be inactive for more than 180 days, in accordance with 30 TEX. ADMIN. CODE § 330.165(c);
 - ii. Begin disposing of whole scrap tires at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 330.15(e)(4);
 - iii. Begin controlling public access to the Facility by means of artificial and/or natural barriers, in accordance with 30 TEX. ADMIN. CODE § 330.131;
 - iv. Install facility boundary, easement, and right-of-way markers, in accordance with 30 TEX. ADMIN. CODE § 330.143(b)(1), (b)(1)(A), and (b)(1)(C); and
- c. It is further ordered that within 45 days after the effective date of the Commission Order, the County shall submit written certification of compliance with Ordering Provisions 4.a.i. through 4.b.iv. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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 A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

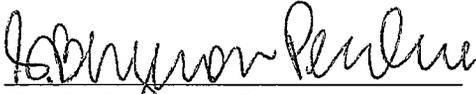
Waste Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

5. The provisions of this Agreed Order shall apply to and be binding upon the County. The County is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility's operations referenced in this Agreed Order.
6. If the County fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the County's failure to comply is not a violation of this Agreed Order. The County shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The County shall notify the Executive Director within seven days after the County becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the County shall be made in writing to the Executive Director. Extensions are not effective until the County receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. This Agreed Order, issued by the Commission, shall not be admissible against the County in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. 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
10. 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 County, or three days after the date on which the Commission mails notice of the Order to the County, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

2/3/08

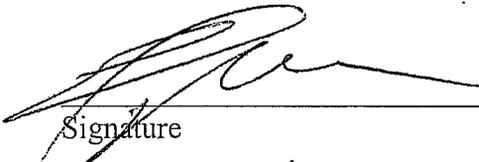
Date

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 in this order and/or my failure to timely pay the penalty amount, may result in:

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

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



Signature

Eloy Vera

Name (Printed or typed)

Authorized representative of Starr County

11-30-07

Date

STARR CO. JUDGE

Title

Attachment A
Supplemental Environmental Project

Attachment A

Docket Number: 2006-1216-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Starr County
Penalty Amount:	Twenty-two thousand nine hundred sixteen dollars (\$22,960)
SEP Amount:	Twenty-two thousand nine hundred sixteen dollars (\$22,960)
Type of SEP:	Pre-approved SEP
Third-Party Recipient:	Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") <i>Cleanup of Unauthorized Trash Dumps</i>
Location of SEP:	Starr County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the *Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")* for the Cleanup of Unauthorized Trash Dumps project. SEP monies will pay for the labor and disposal costs associated with proper clean up and disposal of wastes and debris at unauthorized trash dump sites. Any remaining SEP funds after completion of the cleanup of unauthorized trash dumps may, upon approval of the Executive Director, be spent on cleaning up abandoned tire dump sites, wastewater treatment assistance for low income individuals, or another approved project in a water quality media. The project will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The unauthorized trash dump and abandoned tire clean up portions of this project will provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should illegally dumped tires catch fire.

The wastewater portion of this SEP would provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they

may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The plugging of abandoned wells project would provide an environmental benefit by reducing the potential for contamination of groundwater and aquifers from pollutants that may be dumped into the well opening.

Recycling of antifreeze would provide an environmental benefit by providing a convenient disposal method for used antifreeze. Antifreeze (ethylene glycol) is a common coolant for automobile engines. Ingestion of antifreeze and its derivatives may lead to kidney failure and harmful effects to the liver. Exposure to ethylene glycol may cause eye and skin irritation. If improperly disposed in the environment, ethylene glycol may be ingested by domestic animals or wildlife. Ingestion may be fatal to small animals. A sudden release of ethylene or propylene glycol into a waterway can produce adverse impacts upon fresh water and marine environments. Glycol degradation in the environment has a high oxygen demand and as a result threatens or negatively impacts aquatic life. Ammonia gas is also released to the environment by the degradation of glycols.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation
and Development Areas, Inc. (RC&D)
Attention: Eddi Darilek
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due with the notation "SEP Refund" and the docket number of the case, and shall send it to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.