

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1394-MSW-E **TCEQ ID:** RN102803913 **CASE NO.:** 34532

RESPONDENT NAME: Fort Bend Regional Landfill, LP

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
<p>SITE WHERE VIOLATION(S) OCCURRED: Fort Bend Regional Landfill, 14115 Davis Estate Road, Fort Bend County</p> <p>TYPE OF OPERATION: Municipal solid waste landfill</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Colin Barth, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0086; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. John Carrington, General Manager, Fort Bend Regional Landfill, LP, 14115 Davis Estate Road, Needville, Texas 77461 Mr. R. Shawn McCash, Vice President, Fort Bend Regional Landfill, LP, 14115 Davis Estate Road, Needville, Texas 77461 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 3, 2007</p> <p>Date of NOV/NOE Relating to this Case: June 26, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to comply with the approved site development plan in Permit No. 2270. Specifically, the Respondent was required to, within five years of issuance of the permit: construct 81.4 acres of wetlands, offer 800 acres to Fort Bend County, and/or deed restrict a buffer zone of 50 feet around the 81.4 acres of created wetlands and 57.9 acres of preserved wetlands [30 TEX. ADMIN. CODE § 330.121(a) and Permit No. 2270 Site Development Plan, Section 1.4-Mitigation Plan].</p> <p>2) Failed to maintain less than a 30 centimeter ("cm") depth of leachate over the landfill liner. Specifically, leachate level measurements revealed elevated levels of leachate (42.672 cm) on the liner in Cell 1 on April 1, 2007 and a reading of 168.402 cm on May 1, 2007 [30 TEX. ADMIN. CODE § 330.331(a)(2)].</p>	<p>Total Assessed: \$15,500</p> <p>Total Deferred: \$3,100 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$12,400</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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement procedures to achieve and maintain leachate levels in the landfill liner below 30 cm;</p> <p>b. Within 30 days after the effective date of this Agreed Order, begin to follow the Mitigation Plan outlined in Permit No. 2270 Section 1.4-Mitigation Plan, or apply for a permit modification to the existing Mitigation Plan and follow all directives from the Waste Permits Division; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): MSW 2270



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	2-Jul-2007	Screening	29-Aug-2007	EPA Due	
	PCW	29-Aug-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Fort Bend Regional Landfill, LP		
Reg. Ent. Ref. No.	RN102803913		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	34532	No. of Violations	2	
Docket No.	2007-1394-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Colin Barth	
Multi-Media		EC's Team	EnforcementTeam 7	
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 Subtotals 2, 3, & 7

Notes

Culpability Subtotal 4

Notes

Good Faith Effort to Comply Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes

50% Enhancement* Subtotal 6

Total EB Amounts	\$22,715
Approx. Cost of Compliance	\$328,100

*Capped at the Total EB \$ Amount

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 Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 29-Aug-2007

Docket No. 2007-1394-MSW-E

PCW

Respondent Fort Bend Regional Landfill, LP

Policy Revision 2 (September 2002)

Case ID No. 34532

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102803913

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%
<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) 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

Enhancement due to same or similar NOV.

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

Screening Date	29-Aug-2007	Docket No.	2007-1394-MSW-E	PCW
Respondent	Fort Bend Regional Landfill, LP	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	34532	<i>PCW Revision June 26, 2007</i>		
Reg. Ent. Reference No.	RN102803913			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Colin Barth			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 330.121(a) and Permit No. 2270 Site Development Plan, Section 1.4 - Mitigation Plan			
Violation Description	Failed to comply with the approved site development plan in Permit No. 2270, as documented during an investigation conducted on May 3, 2007. Specifically, the Respondent was required to, within five years of issuance of the permit: construct 81.4 acres of wetlands, offer 800 acres to Fort Bend County, and/or deed restrict a buffer zone of 50 feet around the 81.4 acres of created wetlands and 57.9 acres of preserved wetlands.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential		x		25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events: 2 118 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended from the investigation date of May 3, 2007 to the screening date of August 29, 2007.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$22,542	Violation Final Penalty Total \$7,750
This violation Final Assessed Penalty (adjusted for limits) \$7,750	

Economic Benefit Worksheet

Respondent Fort Bend Regional Landfill, LP
Case ID No. 34532
Reg. Ent. Reference No. RN102803913
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$325,600	3-May-2007	28-Apr-2008	1.0	\$1,073	\$21,469	\$22,542
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 construct 81.4 acres of wetlands, offer 800 acres to Fort Bend County, and/or deed restrict a buffer zone of 50 feet around the 81.4 acres of created wetlands and 57.9 acres of preserved wetlands. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$325,600

TOTAL

\$22,542

Screening Date 29-Aug-2007 **Docket No.** 2007-1394-MSW-E **PCW**
Respondent Fort Bend Regional Landfill, LP *Policy Revision 2 (September 2002)*
Case ID No. 34532 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN102803913
Media [Statute] Municipal Solid Waste
Enf. Coordinator Colin Barth

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<input type="text" value="Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of this violation."/>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

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 Fort Bend Regional Landfill, LP
Case ID No. 34532
Reg. Ent. Reference No. RN102803913
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$2,500	3-May-2007	28-Apr-2008	1.0	\$8	\$165	\$173
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 ensure leachate levels remain below 30cm. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	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	\$2,500	TOTAL	\$173
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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
FORT BEND REGIONAL LANDFILL,
LP
RN102803913

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1394-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 Fort Bend Regional Landfill, LP ("Fort Bend") 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 Fort Bend appear before the Commission and together stipulate that:

1. Fort Bend owns and operates a municipal solid waste landfill at 14115 Davis Estate Road, in Fort Bend 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 Fort Bend agree that the Commission has jurisdiction to enter this Agreed Order, and that Fort Bend is subject to the Commission's jurisdiction.
4. Fort Bend received notice of the violations alleged in Section II ("Allegations") on or about July 1, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Fort Bend of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifteen Thousand Five Hundred Dollars (\$15,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Fort Bend has paid Twelve Thousand Four Hundred Dollars (\$12,400) of the administrative penalty and Three Thousand One Hundred Dollars (\$3,100) is deferred contingent upon Fort Bend'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 Fort Bend fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Fort Bend 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 Fort Bend 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 Fort Bend 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, Fort Bend is alleged to have:

1. Failed to comply with the approved site development plan in Permit No. 2270, in violation of 30 TEX. ADMIN. CODE § 330.121(a) and Permit No. 2270 Site Development Plan, Section 1.4 - Mitigation Plan, as documented during an investigation conducted on May 3, 2007. Specifically, Fort Bend was required to, within five years of issuance of the permit: construct 81.4 acres of wetlands, offer 800 acres to Fort Bend County, and/or deed restrict a buffer zone of 50 feet around the 81.4 acres of created wetlands and 57.9 acres of preserved wetlands.
2. Failed to maintain less than a 30 centimeter ("cm") depth of leachate over the landfill liner, in violation of 30 TEX. ADMIN. CODE § 330.331(a)(2), as documented during an investigation conducted on May 3, 2007. Specifically, leachate level measurements revealed elevated levels of leachate (42.672 cm) on the liner in Cell 1 on April 1, 2007 and a reading of 168.402 cm on May 1, 2007.

III. DENIALS

Fort Bend generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Fort Bend pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Fort Bend'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: Fort Bend Regional Landfill, LP, Docket No. 2007-1394-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 Fort Bend shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement procedures to achieve and maintain leachate levels in the landfill liner below 30 cm, in accordance with 30 TEX. ADMIN. CODE § 330.331(a)(2);
 - b. Within 30 days after the effective date of this Agreed Order, begin to follow the Mitigation Plan outlined in Permit No. 2270 Section 1.4-Mitigation Plan, or apply for a permit modification to the existing Mitigation Plan and follow all directives from the Waste Permits Division, in accordance with 30 TEX. ADMIN. CODE § 330.121(a) and Permit No. 2270 Site Development Plan, Section 1.4 - Mitigation Plan. The permit modification should be sent to;

Municipal Solid Waste Permits Section, MC 124
Waste Permits Division
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

Order to Fort Bend, 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

Date 3/7/2008

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.



Signature

Date 12-6-2007

R. Shawn McCosh
Name (Printed or typed)
Authorized Representative of
Fort Bend Regional Landfill, LP

Vice President
Title

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.

