

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.: 2006-1942-SLG-E TCEQ ID: RN103017661 CASE NO.: 31662**  
**RESPONDENT NAME: O'BOY SERVICE COMPANY, INC.**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input checked="" type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 4320 Trade Center Boulevard, Laredo, Webb County</p> <p><b>TYPE OF OPERATION:</b> Sludge transportation operation</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 26, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>TCEQ Enforcement Coordinator:</b> Ms. Audra Ruble, Air Enforcement Section, R-14, (361) 825-3126  <b>TCEQ Regional Contact:</b> Ms. Rose-Luna Pirtle, Laredo Regional Office, MC R-16 (956) 753-4052  <b>Respondent:</b> Ms. Melissa Mae Moreno, President, O'Boy Service Company, Inc., 4320 Trade Center Blvd., Laredo, Texas 78041  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b>                      None</p> <p><b>Dates of Investigation Relating to this Case:</b>                      September 25, 2006; November 14, 2006                      July 28, 2006</p> <p><b>Date of NOE Relating to this Case:</b>                      August 23, 2006 (NOV); October 3, 2006 (NOE)</p> <p><b>Background Facts:</b>                      The Executive Director filed and mailed an EDRP on April 3, 2007. The Respondent received notice of the EDRP, as evidenced by the signature on the "green card," on April 5, 2007. The Respondent has not filed an answer or requested a hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>SLG</b></p> <p>1. Failed to obtain approval from the Executive Director to temporarily store waste at a fixed or permanent site and failed to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the waste and the (Texas) facility has written authorization by permit or registration issued by the Executive Director to receive wastes [30 TEX. ADMIN. CODE §§ 312.143 and 312.147(b)].</p> <p>2. Failed to prominently mark the company name and company telephone number on two vehicles and apply registration stickers on four vehicles and to maintain the registration number on both sides of the vehicles with numbers at least two inches in height on two vehicles. In addition, failed to prominently mark discharge valves on one vehicle with license plate number 5JV-W37 [30 TEX. ADMIN. CODE §§ 312.144(a) and 312.144(f)].</p> <p>3. Failed to maintain vehicles and equipment used for the collection and transportation of the wastes to prevent loss of liquid or solid waste materials and to prevent health nuisance and safety hazards to operating personnel and the public [30 TEX. ADMIN. CODE § 312.144(b)].</p>	<p><b>Total Assessed:</b> \$8,925</p> <p><b>Total Deferred:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$8,925</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b>                      September 2002</p>	<p><b>Technical Requirement(s)</b></p> <p>1. Immediately, the Respondent shall:</p> <p>a. Cease depositing or storing sewage sludge at any facility which is not properly authorized.</p> <p>b. Ensure that waste is not stored in mobile closed containers for any period greater than four days.</p> <p>c. Begin maintaining vehicles and equipment used for the collection and transportation of the waste to prevent loss of liquid or solid waste materials and to prevent health nuisance and safety hazards to operating personnel and the public.</p> <p>2. Within five days, remove and properly dispose of all chemical toilet waste, toilet deodorant solution, and contaminated surface soils from all affected areas, including the chemical toilet wash area, resulting from any unauthorized discharges.</p> <p>3. Within 30 days:</p> <p>a. Submit payment for all outstanding fees for TCEQ Municipal Transportation Sludge Fee Account No. 0800227H, including any associated penalties and interest;</p> <p>b. Prominently mark each truck with the company name, telephone number, registration stickers, and the Commission assigned registration number a minimum of two inches in height on both sides of the vehicles and clearly visible at a distance of 50 feet and mark all discharge valves and ports;</p> <p>c. Submit annual summary of activities for the previous period of June 1, 2004 through May 31, 2005 showing the amounts and types of waste collected, disposition of such wastes, and amounts and types of waste delivered to each facility, and</p> <p>d. Properly dispose of all stored wastes in the 200 gallon holding tanks, 55 gallon portable toilet bases and 55 gallon portable toilets and the 350 gallons of waste stored in a vehicle with license plate number 8TB-N75 from the site.</p>

<p>4. Failed to retain copies of trip tickets for five years and be readily available for review by commission staff or be submitted to the Executive Director upon request [TEX. ADMIN. CODE § 312.145(b)(2)].</p> <p>5. Failed to submit to the Executive Director, by July 1, 2006, an annual summary of their activities for the previous period of June 1, 2005 through May 31, 2006, showing the amounts and types of waste collected, disposition of such wastes, and amounts and types of waste delivered to each facility [30 TEX. ADMIN. CODE § 312.145(b)(4)].</p> <p>6. Failed to prevent the storage of waste in a mobile closed container (container on wheels) for more than four days [30 TEX. ADMIN. CODE § 312.147(a)].</p> <p>7. Failed to prevent unauthorized discharges of waste into or adjacent to any water in the State [TEX. WATER CODE § 26.121(a)].</p> <p>8. Failed to pay fees associated with Municipal Sludge for TCEQ Municipal Transportation Sludge Fee Account No. 0800227H, including associated late fees [30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702].</p>		<p>4. Within 45 days, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance required by the above Ordering Provisions.</p> <p>5. Within 60 days, demonstrate compliance by submitting copies of all trip tickets used to document wastes transported for the three previous complete calendar months.</p>
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**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005

<b>DATES</b>	Assigned	23-Oct-2006	Screening	08-Nov-2006	EPA Due	
	PCW	28-Feb-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	O'Boy Service Company, Inc.
Reg. Ent. Ref. No.	RN103017661
Facility/Site Region	16-Laredo <
Major/Minor Source	Minor Source <

<b>CASE INFORMATION</b>			
Enf./Case ID No.	31662	No. of Violations	8
Docket No.	2006-1942-SLG-E	Order Type	1660 <
Media Program(s)	Municipal Solid Waste <	Enf. Coordinator	Audra Ruble
Multi-Media		EC's Team	Enforcement Team 1 <
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** 5% Enhancement Subtotals 2, 3, & 7

Notes

**Culpability** No <| 0% Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply** 0% Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	<i>(mark with a small x)</i>

Notes

**Economic Benefit** 0% Enhancement\* Subtotal 6

Total EB Amounts	\$2,120	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$13,522	

**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 indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY** Final Assessed Penalty

**Screening Date** 08-Nov-2006

**Docket No.** 2006-1942-SLG-E

**PCW**

**Respondent** O'Boy Service Company, Inc.

*Policy Revision 2 (September 2002)*

**Case ID No.** 31662

*PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN103017661

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Audra Ruble

**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> )	1	5%
	Other written NOVs	0	0%
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)** 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 one prior NOV with same or similar violations.

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

**Screening Date** 08-Nov-2006 **Docket No.** 2006-1942-SLG-E **PCW**  
**Respondent** O'Boy Service Company, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 31662 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN103017661  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Audra Ruble  
**Violation Number**   
**Primary Rule Cite(s)**   
**Secondary Rule Cite(s)**

**Violation Description**

Failed to obtain approval from the Executive Director to temporarily store waste at a fixed or permanent site and failed to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the waste and the (Texas) facility has written authorization by permit or registration issued by the executive director to receive wastes, as documented by the September 25, 2006 investigation. Specifically, approximately 6,500 gallons of waste was being stored in 200 gallon holding tanks, 55 gallon portable toilet bases, and in 55 gallon portable toilets.

**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	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10%"/>

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

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

**Violation Base Penalty**

**Economic Benefit (EB) for this violation**

**Estimated EB Amount**

**Statutory Limit Test**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

### Economic Benefit Worksheet

Respondent O'Boy Service Company, Inc.  
 Case ID No. 31662  
 Reg. Ent. Reference No. RN103017661  
 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
<b>Delayed Costs</b>							
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	\$780	28-Jul-2006	15-May-2007	0.8	\$31	n/a	\$31
Permit Costs	\$7,800	28-Jul-2006	15-May-2007	0.8	\$311	n/a	\$311
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to dispose of approximately 65,000 gallons of septic tank waste (\$120 for every 1,000 gallons) at a facility authorized to accept the type of waste being disposed. The Date Required is the first date the violation was documented and the Final Date is the anticipated 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 **\$8,580** TOTAL **\$342**

Screening Date 08-Nov-2006

Docket No. 2006-1942-SLG-E

PCW

Respondent O'Boy Service Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 31662

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103017661

Media [Statute] Municipal Solid Waste

Enf. Coordinator Audra Ruble

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 312.144(a) and (f)

Secondary Rule Cite(s)

Violation Description Failed to prominently mark the company name and company telephone number on two vehicles and apply registration stickers on four vehicles and to maintain the registration number on both sides of the vehicles with numbers at least two inches in height on two vehicles, as documented by the September 25, 2006 investigation. Specifically, the company name and company telephone number were illegible on two vehicles with license plate numbers 5JV-W37 and 3TB-Y07, all registered vehicles were lacking TCEQ registration stickers, and the registration numbers on two vehicles with license plate numbers 8TB-N75 and 3ZP-Y51 were not being maintained. In addition, the respondent failed to prominently mark discharge valves on one vehicle with license plate number 5JV-W37.

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	Percent
		X		5%

Matrix Notes Approximately 63% of the rule requirement was not met.

Adjustment -\$9,500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 4

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	X	

Violation Base Penalty \$2,000

Four single events are recommended, one for each vehicle in violation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$2,100

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

### Economic Benefit Worksheet

Respondent O'Boy Service Company, Inc.  
 Case ID No. 31662  
 Reg. Ent. Reference No. RN103017661  
 Media [Statute] 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
<b>Delayed Costs</b>							
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)	\$300	28-Jul-2006	15-Jun-2007	0.9	\$13	n/a	\$13

Notes for DELAYED costs: Estimated costs to label trucks and truck valves with the required information. Date required is the first date the violation was documented and final date is expected 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** 08-Nov-2006 **Docket No.** 2006-1942-SLG-E **PCW**

**Respondent** O'Boy Service Company, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 31662 *PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN103017661

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Audra Ruble

**Violation Number**

**Primary Rule Cite(s)**

**Secondary Rule Cite(s)**

**Violation Description**

Failed to maintain vehicles and equipment used for the collection and transportation of the wastes to prevent loss of liquid or solid waste materials and to prevent health nuisance and safety hazards to operating personnel and the public, as documented by the September 25, 2006 investigation. Specifically, a vehicle with license plate number 8TB-N75 was leaking liquid at the connection between the vehicle and a drainage hose connected to the vehicle.

**Base Penalty**

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

		Harm		
Release		Major	Moderate	Minor
OR	Actual			X
	Potential			

**Percent**

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent**

**Matrix Notes**

Human health or the environment was exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

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

**Violation Base Penalty**

One quarterly event is recommended from the September 25, 2006 investigation date to the November 8, 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 O'Boy Service Company, Inc.  
 Case ID No. 31662  
 Reg. Ent. Reference No. RN103017661  
 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
<b>Delayed Costs</b>							
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	\$1,500	28-Jul-2006	15-May-2007	0.8	\$60	n/a	\$60
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to remove any contaminated liquid and soil resulting from the discharge. Date required is the initial date of the investigation and final date is expected 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 **\$1,500** TOTAL **\$60**

Screening Date 08-Nov-2006

Docket No. 2006-1942-SLG-E

PCW

Respondent O'Boy Service Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 31662

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN103017661

Media [Statute] Municipal Solid Waste

Enf. Coordinator Audra Ruble

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10%"/>

Matrix Notes

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 O'Boy Service Company, Inc.  
 Case ID No. 31662  
 Reg. Ent. Reference No. RN103017661  
 Media [Statute] Municipal Solid Waste  
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

Item Description	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
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)	\$1,500	01-Nov-2005	30-Sep-2007	2.0	\$150	\$1,500	\$1,650
Notes for AVOIDED costs							
Estimated annual cost to maintain records. Date required is the investigation date and final date is the expected compliance date.							

Approx. Cost of Compliance **\$1,500**

**TOTAL \$1,650**

<b>Screening Date</b> 08-Nov-2006	<b>Docket No.</b> 2006-1942-SLG-E	<b>PCW</b>
<b>Respondent</b> O'Boy Service Company, Inc.		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 31662		<i>PCW Revision May 19, 2005</i>
<b>Reg. Ent. Reference No.</b> RN103017661		
<b>Media [Statute]</b> Municipal Solid Waste		
<b>Enf. Coordinator</b> Audra Ruble		
<b>Violation Number</b> <input type="text" value="5"/>		
<b>Primary Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 312.145(b)(4)"/>	
<b>Secondary Rule Cite(s)</b>	<input type="text"/>	
<b>Violation Description</b>	<div style="border: 1px solid black; padding: 5px;">                     Failed to submit to the executive director, by July 1st, an annual summary of their activities for the previous period of June 1 through May 31 showing the amounts and types of waste collected, disposition of such wastes, and amounts and types of waste delivered to each facility, as documented by the September 25, 2006 investigation. Specifically, the respondent did not submit an annual summary of waste activities to the TCEQ for the 2006 reporting year.                 </div>	

**Base Penalty**

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>

**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>	<input checked="" type="text" value="X"/>

**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 O'Boy Service Company, Inc.  
 Case ID No. 31662  
 Reg. Ent. Reference No. RN103017661  
 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
<b>Delayed Costs</b>							
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)	\$100	01-Jul-2006	15-Jun-2007	1.0	\$5	n/a	\$5

Notes for DELAYED costs: This is an estimated cost to submit an annual summary of waste activities for the 2006 reporting year to the TCEQ Registration, Review, and Reporting Division. The Date Required is the required submission date of the annual summary of waste activities 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 \$100 TOTAL \$5

**Screening Date** 08-Nov-2006 **Docket No.** 2006-1942-SLG-E **PCW**  
**Respondent** O'Boy Service Company, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 31662 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN103017661  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Audra Ruble  
**Violation Number**   
**Primary Rule Cite(s)**   
**Secondary Rule Cite(s)**   
**Violation Description**

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="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="X"/>	

>> **Programmatic Matrix**

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

Matrix Notes

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="text" value="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 O'Boy Service Company, Inc.  
 Case ID No. 31662  
 Reg. Ent. Reference No. RN103017661  
 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
<b>Delayed Costs</b>							
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	\$42	28-Jul-2006	15-May-2007	0.8	\$2	n/a	\$2
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to dispose of approximately 350 gallons of septic tank waste at a facility authorized to accept the type of waste being disposed. The estimate is based on a cost of \$120 for every 1,000 gallons of septic tank waste to be disposed. Date required is the initial date of the investigation and final date is 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 \$42

TOTAL \$2

**Screening Date** 08-Nov-2006 **Docket No.** 2006-1942-SLG-E **PCW**

**Respondent** O'Boy Service Company, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 31662 *PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN103017661

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Audra Ruble

**Violation Number**

**Primary Rule Cite(s)**

**Secondary Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

>> **Programmatic Matrix**

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

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

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

**Violation Base Penalty**

**Economic Benefit (EB) for this violation**

**Estimated EB Amount**

**Statutory Limit Test**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

### Economic Benefit Worksheet

Respondent O'Boy Service Company, Inc.  
 Case ID No. 31662  
 Reg. Ent. Reference No. RN103017661  
 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
<b>Delayed Costs</b>							
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	\$1,500	25-Sep-2006	20-May-2007	0.6	\$49	n/a	\$49
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to remove any contaminated liquid and soil resulting from the discharge. Date required is the initial date of the investigation and final date is expected 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 \$1,500 TOTAL \$49

**Screening Date** 08-Nov-2006

**Docket No.** 2006-1942-SLG-E

**PCW**

**Respondent** O'Boy Service Company, Inc.

*Policy Revision 2 (September 2002)*

**Case ID No.** 31662

*PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN103017661

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Audra Ruble

**Violation Number**

**Primary Rule Cite(s)**

**Secondary Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

>> **Programmatic Matrix**

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

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 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 O'Boy Service Company, Inc.  
 Case ID No. 31662  
 Reg. Ent. Reference No. RN103017661  
 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
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs	N/A						

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
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	N/A						

Approx. Cost of Compliance \$0 TOTAL \$0

# Compliance History

Customer/Respondent/Owner-Operator:	CN601549090	O'Boy Service Company, Inc.	Classification: AVERAGE	Rating: 12.50
Regulated Entity:	RN103017661	OBOY SERVICE COMPANY SGE20783	Classification: AVERAGE	Site Rating: 12.50
ID Number(s):	SLUDGE	REGISTRATION		20783
Location:	4320 TRADE CENTER BLVD, LAREDO, TX, 78045		Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Prepared:	November 08, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 08, 2001 to November 08, 2006			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Brent Hurta</u>	Phone:	<u>512-239-6589</u>	

## Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 10/03/2006 (514068)  
2 03/28/2003 (27552)

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

Date: 08/23/2006 (490099)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 312, SubChapter G 312.142(d)

Description: Failure to renew Sludge Transporter registration before expiration date.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 312, SubChapter G 312.143

Description: Failure to deposit waste at an authorized facility.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 312, SubChapter G 312.144(a)[G]

Description: Failure to mark transportation vehicles with company name, telephone number and authorization stickers.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 312, SubChapter G 312.144(a)[G]

Description: Failure to maintain TCEQ registration number on both sides of vehicle with a minimum height of 2 (two) inches which are clearly visible at 50ft.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 312, SubChapter G 312.144(b)

Description: Failure to meet sanitation standards for transportation vehicles.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 312, SubChapter G 312.144(f)

Description: Failure to have discharge valves or ports on transport vehicle prominently marked

and visible.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 312, SubChapter G 312.145(b)(2)

Description: Failure to maintain trip tickets for 5 years and readily available for review.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 312, SubChapter G 312.145(b)(4)[G]

Description: Failure to submit Annual Summary Report by July 1st.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 312, SubChapter G 312.147(a)

Description: Failure to obtain approval from the Executive Director for storage of waste in a wheeled container for more that 4 (four) days.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 312, SubChapter G 312.147(b)[G]

Description: Failure to obtain approval from the Executive Director to temporally store waste at a fixed or permanent site.

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Description: Failure to prevent an unauthorized discharge.

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 O'BOY SERVICE  
COMPANY, INC.;  
RN103017661

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2006-1942-SLG-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7, and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is O'Boy Service Company, Inc. ("O'Boy").

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. O'Boy owns and operates a sludge transportation operation at 4320 Trade Center Boulevard in Laredo, Webb County, Texas (the "Site").
2. O'Boy's operations involve the management and the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection conducted on September 25, 2006, TCEQ staff documented that O'Boy:
  - a. failed to obtain approval from the Executive Director to temporarily store waste at a fixed or permanent site and failed to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the waste and the (Texas) facility has written authorization by permit or registration issued by the executive director to receive wastes, as documented by the September 25, 2006 investigation. Specifically, approximately 6,500 gallons of waste was being stored in 200 gallon holding tanks, 55 gallon portable toilet bases, and in 55 gallon portable toilets;

- b. failed to prominently mark the company name and company telephone number on two vehicles and apply registration stickers on four vehicles and to maintain the registration number on both sides of the vehicles with numbers at least two inches in height on two vehicles, as documented by the September 25, 2006 investigation. Specifically, the company name and company telephone number were illegible on two vehicles with license plate numbers 5JV-W37 and 3TB-Y07, all registered vehicles were lacking TCEQ registration stickers, and the registration numbers on two vehicles with license plate numbers 8TB-N75 and 3ZP-Y51 were not being maintained. In addition, the respondent failed to prominently mark discharge valves on one vehicle with license plate number 5JV-W37;
- c. failed to maintain vehicles and equipment used for the collection and transportation of the wastes to prevent loss of liquid or solid waste materials and to prevent health nuisance and safety hazards to operating personnel and the public. Specifically, a vehicle with license plate number 8TB-N75 was leaking liquid at the connection between the vehicle and a drainage hose connected to the vehicle;
- d. failed to retain copies of trip tickets for five years and be readily available for review by commission staff or be submitted to the Executive Director upon request. Specifically, no trip tickets were available for review after November 1, 2005;
- e. failed to submit to the Executive Director, by July 1, 2006, an annual summary of their activities for the previous period of June 1, 2005 through May 31, 2006, showing the amounts and types of waste collected, disposition of such wastes, and amounts and types of waste delivered to each facility. Specifically, the respondent did not submit an annual summary of waste activities to the TCEQ for the 2006 reporting year;
- f. failed to prevent the storage of waste in a mobile closed container (container on wheels) for more than four days. Specifically, approximately 350 gallons of waste was being stored in a vehicle with license plate number 8TB-N75 for more than four consecutive days; and
- g. failed to prevent unauthorized discharges of waste into or adjacent to any water in the State. Specifically, chemical toilet deodorant discharge from the toilet wash area was exiting the facility and draining into a stormwater channel adjacent to the facility.

4. During an investigation conducted on November 14, 2006, TCEQ staff documented that O'Boy failed to pay fees associated with Municipal Sludge for TCEQ Municipal Transportation Sludge Fee Account No. 0800227H, including associated late fees.
5. O'Boy received notice of the violations in paragraph 3 on or about October 3, 2006.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of O'Boy Service Company, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on April 3, 2007.
7. By letter dated April 3, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served O'Boy with notice of the EDPRP. According to the return receipt "green card", O'Boy received notice of the EDPRP on April 5, 2007, as evidenced by the signature on the card.
8. More than 20 days have elapsed since O'Boy received notice of the EDPRP, provided by the Executive Director. O'Boy failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, O'Boy is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7, and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 3.a., O'Boy failed to obtain approval from the Executive Director to temporarily store waste at a fixed or permanent site and failed to deposit wastes at a facility designated by or acceptable to the generator where the owner or operator of the facility agrees to receive the waste and the (Texas) facility has written authorization by permit or registration issued by the executive director to receive wastes, in violation of 30 TEX. ADMIN. CODE §§ 312.143 and 312.147(b). Specifically, approximately 6,500 gallons of waste was being stored in 200 gallon holding tanks, 55 gallon portable toilet bases, and in 55 gallon portable toilets.
3. As evidenced by Finding of Fact No. 3.b., failed to prominently mark the company name and company telephone number on two vehicles and apply registration stickers on four vehicles and to maintain the registration number on both sides of the vehicles with

numbers at least two inches in height on two vehicles, in violation of 30 TEX. ADMIN. CODE § 312.144(a). Specifically, the company name and company telephone number were illegible on two vehicles with license plate numbers 5JV-W37 and 3TB-Y07, all registered vehicles were lacking TCEQ registration stickers, and the registration numbers on two vehicles with license plate numbers 8TB-N75 and 3ZP-Y51 were not being maintained. In addition, the respondent failed to prominently mark discharge valves on one vehicle with license plate number 5JV-W37, in violation of 30 TEX. ADMIN. CODE § 312.144(f).

4. As evidenced by Finding of Fact No. 3.c., O'Boy failed to maintain vehicles and equipment used for the collection and transportation of the wastes to prevent loss of liquid or solid waste materials and to prevent health nuisance and safety hazards to operating personnel and the public, in violation of 30 TEX. ADMIN. CODE § 312.144(b). Specifically, a vehicle with license plate number 8TB-N75 was leaking liquid at the connection between the vehicle and a drainage hose connected to the vehicle.
5. As evidenced by Finding of Fact No. 3.d O'Boy failed to retain copies of trip tickets for five years and be readily available for review by commission staff or be submitted to the Executive Director upon request, in violation of TEX. ADMIN. CODE § 312.145(b)(2). Specifically, no trip tickets were available for review after November 1, 2005.
6. As evidenced by Finding of Fact No. 3.e., O'Boy failed to submit to the Executive Director, by July 1, 2006, an annual summary of their activities for the previous period of June 1, 2005 through May 31, 2006, showing the amounts and types of waste collected, disposition of such wastes, and amounts and types of waste delivered to each facility, in violation of 30 TEX. ADMIN. CODE § 312.145(b)(4). Specifically, the respondent did not submit an annual summary of waste activities to the TCEQ for the 2006 reporting year.
7. As evidenced by Finding of Fact No. 3.f., O'Boy failed to prevent the storage of waste in a mobile closed container (container on wheels) for more than four days, in violation of 30 TEX. ADMIN. CODE § 312.147(a). Specifically, approximately 350 gallons of waste was being stored in a vehicle with license plate number 8TB-N75 for more than four consecutive days.
8. As evidenced by Finding of Fact No. 3.g., O'Boy failed to prevent unauthorized discharges of waste into or adjacent to any water in the State, in violation of TEX. WATER CODE § 26.121(a). Specifically, chemical toilet deodorant discharge from the toilet wash area was exiting the facility and draining into a stormwater channel adjacent to the facility.

9. As evidenced by Finding of Fact No. 4, during an investigation conducted on November 14, 2006, TCEQ staff documented that O'Boy failed to pay fees associated with Municipal Sludge for TCEQ Municipal Transportation Sludge Fee Account No. 0800227H, including associated late fees, in violation of 30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702.
10. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served O'Boy with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
11. As evidenced by Finding of Fact No. 8, O'Boy has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against O'Boy and assess the penalty recommended by the Executive Director.
12. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against O'Boy for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
13. An administrative penalty in the amount of eight thousand nine hundred twenty-five dollars (\$8,925.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
14. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. O'Boy is assessed an administrative penalty in the amount of eight thousand nine hundred twenty-five dollars (\$8,925.00) for violations of TEX. WATER CODE chs. 5 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and rules of the TCEQ. The payment of this administrative penalty and O'Boy's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or

penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: O'Boy Service Company, Inc.; Docket No. 2006-1942-SLG-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. O'Boy shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, O'Boy shall:
    - i. Cease depositing or storing sewage sludge at any facility which is not properly authorized, in accordance with 30 TEX. ADMIN. CODE ch. 312;
    - ii. Ensure that wastes are not stored in mobile closed containers for any period greater than four days, in accordance with 30 TEX. ADMIN. CODE § 312.147;
    - iii. Begin maintaining vehicles and equipment used for the collection and transportation of the wastes to prevent loss of liquid or solid waste materials and to prevent health nuisance and safety hazards to operating personnel and the public, in accordance with 30 TEX. ADMIN. CODE § 312.144;
  - b. Within five days after the effective date of this Order, O'Boy shall remove and properly dispose of all chemical toilet waste, toilet deodorant solution, and contaminated surface soils from all affected areas, including the chemical toilet wash area, resulting from any unauthorized discharges;
  - c. Within 20 days after the effective date of this Order, O'Boy shall submit written certification of compliance with Ordering Provisions 2.a.i. through iii. and 2.b. The certification shall include detailed supporting documentation including photographs, 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 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:

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

- d. Within 30 days after the effective date of this Order, O'Boy shall:
- i. Submit payment for all outstanding fees for TCEQ Municipal Transportation Sludge Fee Account No. 0800227H, including any associated penalties and interest and with the notation, "O'Boy Service Company, Inc., Docket No. 2006-1942-SLG-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
  - ii. Prominently mark each truck with the company name, telephone number, registration stickers, and the Commission assigned registration number a minimum of two inches in height on both sides of the vehicles and clearly visible at a distance of 50 feet and mark all discharge valves and ports, in accordance with 30 TEX. ADMIN. CODE § 312.144;

- iii. Submit to the executive director the annual summary of activities for the previous period of June 1, 2004 through May 31, 2005 showing the amounts and types of waste collected, disposition of such wastes, and amounts and types of waste delivered to each facility, in accordance with 30 TEX. ADMIN. CODE § 312.145;
- iv. Properly dispose of all stored wastes in the 200 gallon holding tanks, 55 gallon portable toilet bases and 55 gallon portable toilets, and the 350 gallons of waste stored in a vehicle with license plate number 8TB-N75 from the site.
- e. Within 45 days after the effective date of this Order, O'Boy shall submit written certification of compliance with Ordering Provision 2.d.ii. through 2.d.iv. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public as described in Ordering Provision 2.c.
- f. Within 60 days after the effective date of this Order, O'Boy shall demonstrate compliance with 30 TEX. ADMIN. CODE § 312.145 by submitting copies of all trip tickets used to document wastes transported for the three previous complete calendar months to:

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

with a copy to:

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

- 3. All relief not expressly granted in this Order is denied.

4. The provisions of this Order shall apply to and be binding upon O'Boy. O'Boy is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If O'Boy fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, O'Boy's failure to comply is not a violation of this Order. O'Boy shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. O'Boy shall notify the Executive Director within seven days after O'Boy becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by O'Boy shall be made in writing to the Executive Director. Extensions are not effective until O'Boy receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to O'Boy if the Executive Director determines that O'Boy has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF BARHAM A. RICHARD**

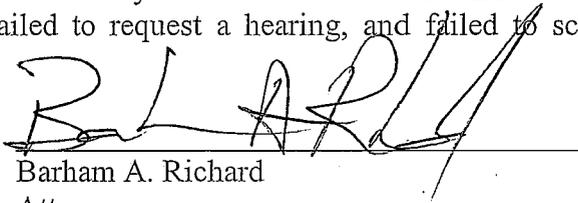
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Barham A. Richard. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of O’Boy Service Company, Inc.” (the “EDPRP”) was filed with the Office of the Chief Clerk on April 3, 2007.

The EDPRP was sent to O’Boy at its last known address on April 3, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, O’Boy received notice of the EDPRP on April 5, 2007, as evidenced by the signature on the card.

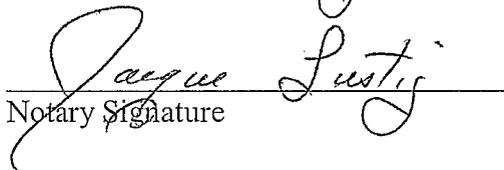
More than 20 days have elapsed since O’Boy received notice of the EDPRP. O’Boy failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Barham A. Richard  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rachael R. Gaines, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 1 day of August, A.D., 2007.



Notary Signature

