

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0298-MSW-E **TCEQ ID:** RN102668654 **CASE NO.:** 32825
RESPONDENT NAME: Polk County

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Polk County Landfill, 3477 Farm-to-Market Road 942 West, Polk County</p> <p>TYPE OF OPERATION: Municipal solid waste Type I 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 December 17, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Cynthia McKaughan, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0735; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable John P. Thompson, County Judge, Polk County, 101 West Church Street, Suite 300, Livingston, Texas 77351 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: August 30, 2006</p> <p>Date of NOV/NOE Relating to this Case: November 11, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to provide financial assurance for closure, post closure, or corrective action. Specifically, the Respondent did not submit an annual update of the local government financial test for Fiscal Year 2006 by the March 29, 2006 deadline [30 TEX. ADMIN. CODE §§ 37.111 and 37.271(5)].</p> <p>2) Failed to construct internal roads in accordance with the Municipal Solid Waste ("MSW") Permit. Specifically, the Facility's Site Operating Plan ("SOP") states that all onsite roads should be constructed of crushed rock or equivalent. Only the road leading to the active disposal area meets this requirement [30 TEX. ADMIN. CODE § 330.121(a) and MSW Permit No. 1384A, Section VIII., Paragraph S].</p> <p>3) Failed to conduct vector monitoring and control measures in areas where scrap tires are stored outside. Specifically, approximately 560 scrap tires stored at the Facility were not being monitored for vectors [30 TEX. ADMIN. CODE § 330.151 and MSW Permit No. 1384A, Section VIII., Paragraph M].</p>	<p>Total Assessed: \$7,500</p> <p>Total Deferred: \$1,500 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$6,000</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Submitted an updated Comprehensive Annual Financial Report to the TCEQ on October 16, 2006;</p> <p>b. Submitted a request for modification of the Facility's Site Operating Plan, to clarify the language that only high volume onsite roads in the vicinity of the working face of the landfill will be constructed of crushed rock or equivalent, to the TCEQ on October 26, 2006; and</p> <p>c. Obtained an enclosed trailer to store used and/or scrap tires, and submitted documentation to the TCEQ on November 8, 2006.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Respond completely and adequately, as determined by the TCEQ, to all letter requests for information concerning the modification of the Facility's SOP within 30 days after the date of such letters, or by any other deadline specified in writing; and</p> <p>b. Within 10 days after obtaining approval of the modification of the Facility's SOP, submit written certification that the modification of the Facility's SOP was approved. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.</p>

Additional ID No(s): MSW Permit No. 1384A

Attachment A

Docket Number: 2007-0298-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Polk County

Payable Penalty Amount: Six Thousand Dollars (\$6,000)

SEP Amount: Six Thousand Dollars (\$6,000)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance

Location of SEP: Polk County

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

I. Project Description**A. Project**

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

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

Polk County
Agreed Order - Attachment A

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive
Bryan, Texas 77802-2700

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

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

Polk County
Agreed Order - Attachment A

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

DATES	Assigned	13-Nov-2006	Screening	22-Feb-2007	EPA Due	
	PCW	21-Feb-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Polk County		
Reg. Ent. Ref. No.	RN102668654		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	32825	No. of Violations	3	
Docket No.	2007-0298-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Mike Limos	
Multi-Media		EC's Team	Enforcement Team 8	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **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	<input checked="" type="checkbox"/>	(mark with x)

Notes

Total EB Amounts **Subtotal 6**
 Approx. Cost of Compliance **0% Enhancement***
 *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 Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 22-Feb-2007

Docket No. 2007-0298-MSW-E

PCW

Respondent Polk County

Policy Revision 2 (September 2002)

Case ID No. 32825

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102668654

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (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)	1	20%
	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) 25%

>> 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 NOV for same or similar violations and one Agreed Order at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 22-Feb-2007

Docket No. 2007-0298-MSW-E

PCW

Respondent Polk County

Policy Revision 2 (September 2002)

Case ID No. 32825

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102668654

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 37.111 and 37.271(5)

Violation Description

Failed to provide financial assurance for closure, post closure, or corrective action, as documented during an investigation conducted on August 30, 2006. Specifically, Polk County did not submit an annual update of the local government financial test for Fiscal Year 2006 by the March 29, 2006 deadline.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

100% of the rule requirement was not met.

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"/>
	semiannual	<input type="text"/>
	annual	<input checked="" type="text" value="x"/>
single event	<input type="text"/>	

Violation Base Penalty

One annual 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: Polk County
Case ID No.: 32825
Reg. Ent. Reference No.: RN102668654
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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	29-Mar-2006	16-Oct-2006	0.6	\$55	n/a	\$55

Notes for DELAYED costs

Estimated cost to prepare and submit an annual update of the local government financial test for the current fiscal year calculated from the submittal deadline to the date the test was submitted.

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000
TOTAL \$55

Screening Date 22-Feb-2007

Docket No. 2007-0298-MSW-E

PCW

Respondent Polk County

Policy Revision 2 (September 2002)

Case ID No. 32825

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102668654

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.121(a) and Municipal Solid Waste ("MSW") Permit No. 1384A, Section VIII., Paragraph S

Violation Description

Failed to construct internal roads in accordance with the MSW Permit, as documented during an investigation conducted on August 30, 2006. Specifically, the Facility's Site Operating Plan ("SOP") states that all onsite roads should be constructed of crushed rock or equivalent. Only the road leading to the active disposal area meets this requirement.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to an insignificant amount of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

Economic Benefit Worksheet

Respondent Polk County
Case ID No. 32825
Reg. Ent. Reference No. RN102668654
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$1,500	30-Aug-2006	26-Oct-2006	0.2	\$12	n/a	\$12
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to revise the Facility's SOP to clarify that only high volume onsite roads in the vicinity of the working face of the landfill be constructed of crushed rock or equivalent calculated from the investigation date to the date of SOP revision submittal to the TCEQ.

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

\$12

Screening Date 22-Feb-2007

Docket No. 2007-0298-MSW-E

PCW

Respondent Polk County

Policy Revision 2 (September 2002)

Case ID No. 32825

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102668654

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 330.151 and MSW Permit No. 1384A, Section VIII., Paragraph M

Violation Description

Failed to conduct vector monitoring and control measures in areas where scrap tires are stored outside, as documented during an investigation conducted on August 30, 2006. Specifically, approximately 560 scrap tires stored at the landfill were not being monitored for vectors.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to a significant amount of pollutants as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 71

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended from the August 30, 2006 investigation date to the November 8, 2006 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$3,125

This violation Final Assessed Penalty (adjusted for limits) \$3,125

Economic Benefit Worksheet

Respondent Polk County
Case ID No. 32825
Reg. Ent. Reference No. RN102668654
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$500	30-Aug-2006	8-Nov-2006	0.2	\$0	\$6	\$7
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

Estimated cost to obtain an enclosed container for used tire storage calculated from the investigation date to the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$7

Compliance History

Customer/Respondent/Owner-Operator: CN600336077 Polk County Classification: AVERAGE Rating: 4.06
Regulated Entity: RN102668654 POLK COUNTY LANDFILL Classification: AVERAGE Site Rating: 17.00
ID Number(s): USED OIL REGISTRATION C81748
MUNICIPAL SOLID WASTE PERMIT 1384A
Location: 3477 FM 942 W, POLK COUNTY Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: February 21, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 21, 2002 to February 21, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Mike Limos Phone: 512.239.5839

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 06/13/2004 ADMINORDER 2003-0512-MSW-E
Classification: Major
Citation: 30 TAC Chapter 37, SubChapter B 37.111
30 TAC Chapter 37, SubChapter C 37.271(5)
Description: Failed to submit an annual update of the local government financial test for FY 2001.
- 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 | 06/18/2003 | (34485) |
| 2 | 10/16/2003 | (252281) |
| 3 | 12/19/2003 | (253332) |
| 4 | 08/30/2005 | (401410) |
| 5 | 11/10/2006 | (515136) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 06/20/2002 (252261).
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 37, SubChapter B 37.111
30 TAC Chapter 37, SubChapter C 37.271(5)
Description: Failed to submit an annual update of the local government financial test for FY 2001.
- 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
POLK COUNTY
RN102668654**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0298-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 Polk County ("the County") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the County appear before the Commission and together stipulate that:

1. The County owns a municipal solid waste Type I landfill at 3477 Farm-to-Market Road 942 West in Polk County, Texas (the "Facility").
2. The Facility involves the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the County agree that the Commission has jurisdiction to enter this Agreed Order, and that the County is subject to the Commission's jurisdiction.
4. The County received notice of the violations alleged in Section II ("Allegations") on or about November 16, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the County of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Five Hundred Dollars (\$7,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Five Hundred Dollars (\$1,500) is deferred contingent upon the County's timely

and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the County fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the County to pay all or part of the deferred penalty. Six Thousand Dollars (\$6,000) shall be conditionally offset by the County's completion of a Supplemental Environmental Project.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the County have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the County has implemented the following corrective measures at the Facility:
 - a. Submitted an updated Comprehensive Annual Financial Report to the TCEQ on October 16, 2006;
 - b. Submitted a request for modification of the Facility's Site Operating Plan to clarify the language that only high volume onsite roads in the vicinity of the working face of the landfill will be constructed of crushed rock or equivalent to the TCEQ on October 26, 2006; and
 - c. Obtained an enclosed trailer to store used and/or scrap tires, and submitted documentation to the TCEQ on November 8, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the County has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Facility, the County is alleged to have:

1. Failed to provide financial assurance for closure, post closure, or corrective action, in violation of 30 TEX. ADMIN. CODE §§ 37.111 and 37.271(5), as documented during an investigation conducted on August 30, 2006. Specifically, the County did not submit an annual update of the local government financial test for Fiscal Year 2006 by the March 29, 2006 deadline.

2. Failed to construct internal roads in accordance with the Municipal Solid Waste ("MSW") Permit, in violation of 30 TEX. ADMIN. CODE § 330.121(a) and MSW Permit No. 1384A, Section VIII., Paragraph S, as documented during an investigation conducted on August 30, 2006. Specifically, the Facility's Site Operating Plan ("SOP") states that all onsite roads should be constructed of crushed rock or equivalent. Only the road leading to the active disposal area meets this requirement.
3. Failed to conduct vector monitoring and control measures in areas where scrap tires are stored outside, in violation of 30 TEX. ADMIN. CODE § 330.151 and MSW Permit No. 1384A, Section VIII., Paragraph M, as documented during an investigation conducted on August 30, 2006. Specifically, approximately 560 scrap tires stored at the Facility were not being monitored for vectors.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the County pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the County's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from 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: Polk County, Docket No. 2007-0298-MSW-E" to:

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

2. The County shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand Dollars (\$6,000) of the assessed administrative penalty shall be offset with the condition that the County implement the SEP defined in Attachment A, incorporated herein by reference. The County's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the County shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all letter requests for information concerning the modification of the Facility's SOP within 30 days after the date of such letters, or by any other deadline specified in writing; and

- b. Within 10 days after obtaining approval of the modification of the Facility's SOP, submit written certification that the modification of the Facility's SOP was approved. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon the County. The County is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the County fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the County's failure to comply is not a violation of this Agreed Order. The County shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The County shall notify the Executive Director within seven days after the County becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the County shall be made in writing to the Executive Director. Extensions are not effective until the County receives written

approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the County in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the County, or three days after the date on which the Commission mails notice of the Order to the County, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

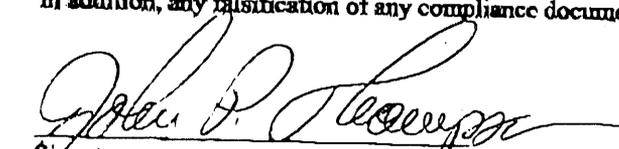
5/2/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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


Signature

1-14-08
Date

John P. Thompson,
Name (Printed or typed)
Authorized Representative of
Polk County

County Judge
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.

Attachment A
Docket Number: 2007-0298-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Polk County
Payable Penalty Amount:	Six Thousand Dollars (\$6,000)
SEP Amount:	Six Thousand Dollars (\$6,000)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance
Location of SEP:	Polk County

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive
Bryan, Texas 77802-2700

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

