

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0076-MSW-E TCEQ ID: RN104566120 CASE NO.: 28007
RESPONDENT NAME: TRIPLE A DUMP TRUCK SERVICE, L.L.C.

ORDER TYPE:		
<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	
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: 4 ½ miles north on Western Road, Hidalgo County</p> <p>TYPE OF OPERATION: Municipal solid waste</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There has been one complaint filed.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. A complaint has been received, but the complainant has not indicated that he wishes to protest this action or speak at agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 23, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Marlin Bullard, Waste Enforcement Division, MC R-9, (254) 751-0335 TCEQ Regional Contact: Mr. David Ramirez, Abilene Regional Office, MC R-15, (956) 430-6048 Respondent: Mr. Arnoldo Pena, Jr., Registered Agent, Triple A Dump Truck Service, LLC, PO Box 297, Mission, TX 78573; Rural Road 36, Box 850, Mission, TX 78574 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:</p> <p><input checked="" type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: January 24, 2005</p> <p>Dates of Investigation Relating to this Case: March 22, 2005 and February 1, 2006</p> <p>Date of NOV Relating to this Case: May 11, 2005 (NOV) and April 17, 2006 (NOE)</p> <p>Background Facts: The EDPRP was filed and mailed to the Respondent on March 1, 2007. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating the Respondent received notice of the EDPRP. The EDFARP was filed and mailed to the Respondent on June 1, 2007. According to the return receipt "green card", the Respondent received notice of the EDFARP on June 4, 2007. The EDSARP was filed and mailed to the Respondent on September 26, 2007. According to the return receipt "green card", the Respondent received notice of the EDSARP on October 13, 2007. The Respondent failed to file an answer to the EDPRP, the EDFARP and the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MSW</p> <p>Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE §§ 330.15(c) and 330.103(b)].</p>	<p>Total Assessed: \$4, 200</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$4,200</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 Order.</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 1, 2002</p>	<p>Ordering Provisions</p> <p>The Respondent shall:</p> <ol style="list-style-type: none"> 1. Immediately cease to cause, suffer, allow, or permit any additional waste to be transported and disposed at the unauthorized MSW facilities. 2. Within 15 days, submit written certification and include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	24-Apr-2006	Screening	01-Jun-2006	EPA Due	N/A
	PCW	16-Feb-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Triple A Dump Truck Service, L.L.C.
Reg. Ent. Ref. No.	RN104566120
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	28007	No. of Violations	1
Docket No.	2006-0076-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 5% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

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

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	\$558	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,000	

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 0% 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 01-Jun-2006

Docket No. 2006-0076-MSW-E

PCW

Respondent Triple A Dump Truck Service, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 28007

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104566120

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	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 is recommended based on one written NOV with same or similar violations.

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

Screening Date 01-Jun-2006

Docket No. 2006-0076-MSW-E

PCW

Respondent Triple A Dump Truck Service, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 28007

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104566120

Media [Statute] Municipal Solid Waste

Enf. Coordinator Mike Limos

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

Percent

>> Programmatic Matrix

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

Percent

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 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

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Triple A Dump Truck Service, L.L.C.
 Case ID No. 28007
 Reg. Ent. Reference No. RN104566120
 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
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	\$5,000	07-Jun-05	30-Aug-07	2.2	\$558	n/a	\$558
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to remove and properly dispose of all waste disposed of at the unauthorized site. The date range is based on the investigation to estimated date of compliance.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$5,000** TOTAL **\$558**

Compliance History

Customer/Respondent/Owner-Operator:	CN602809204	Triple A Dump Truck Service LLC	Classification:	Rating:
Regulated Entity:	RN104566120	TRIPLE A DUMP TRUCK SERVICE UNA SITE	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER		455150139
Location:	4 1/4 MI N WESTERN RD MISSION TX			
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	September 18, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 18, 2002 to September 18, 2007			

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

Name: Marlin Bullard Phone: (254) 761-3038

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 04/20/2006 (462681)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 05/11/2005 (380595)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.5(a)[G]
Description: A person may not cause, suffer, allow, or permit the collection, storage, transportation, processing, or disposal of municipal solid waste in an unauthorized manner.
 - 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
TRIPLE A DUMP TRUCK
SERVICE, L.L.C.
RN104566120

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-0076-MSW-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Second Amended Report and Petition filed pursuant to TEX. WATER CODE ch. 7, 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 Triple A Dump Truck Service, L.L.C. ("Triple A").

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

FINDINGS OF FACT

1. Triple A owns and operates a dump truck and solid waste transport service located at 4 ½ miles north on Western Road, Hidalgo County, Texas (the "Facility").
2. The Facility involves the management and disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During investigations conducted on March 22, 2005 and February 1, 2006, a TCEQ Harlingen Regional Office investigator documented that Triple A failed to prevent the unauthorized disposal of municipal solid waste.
4. Triple A received notice of the violation on or about May 11, 2005 and April 20, 2006.
5. 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 Triple A Dump Truck Service, L.L.C." (the "EDPRP") in the TCEQ Chief Clerk's office on March 1, 2007.

6. By letter dated March 1, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Triple A with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Triple A received notice of the EDPRP.
7. The Executive Director filed the "Executive Director's First Amended 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 Triple A Dump Truck Service, L.L.C." (the "EDFARP") in the TCEQ Chief Clerk's office on June 1, 2007.
8. By letter dated June 1, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Triple A with notice of the EDFARP. According to the return receipt "green card", Triple A received notice of the EDFARP on June 4, 2007, as evidenced by the signature on the card.
9. The Executive Director filed the "Executive Director's Second Amended 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 Triple A Dump Truck Service, L.L.C." (the "EDSARP") in the TCEQ Chief Clerk's office on September 26, 2007.
10. By letter dated September 26, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Triple A with notice of the EDSARP. According to the return receipt "green card", Triple A received notice of the EDSARP on October 13, 2007, as evidenced by the signature on the card.
11. More than 20 days have elapsed since Triple A received notice of the EDPRP, the EDFARP and the EDSARP provided by the Executive Director. Triple A failed to file an answer to the EDPRP, the EDFARP and the EDSARP, 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, Triple A is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3, Triple A failed to prevent the unauthorized disposal of municipal solid waste, in violation of 30 TEX. ADMIN. CODE §§ 330.15(c) and 330.103(b).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Triple A with proper notice of the EDPRP as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact Nos. 7, 8, 9 and 10, the Executive Director has timely served Triple A with proper notice of the EDPRP as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 11, Triple A 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 Triple A and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Triple A 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.
7. An administrative penalty in the amount of four thousand two hundred dollars (\$4,200.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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. Triple A is assessed an administrative penalty in the amount of four thousand two hundred dollars (\$4,200.00) for violations of TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361 and rules of the TCEQ. The payment of this administrative penalty and Triple A'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: Triple A Dump Truck Service, L.L.C.; Docket No. 2006-0076-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. Triple A shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Triple A shall cease to cause, suffer, allow, or permit any additional waste to be transported and disposed at unauthorized MSW facilities; and
 - b. Within 15 days after the effective date of this Order, Triple A shall submit written certification as described below, and include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

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

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

The certification shall be submitted to:

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

and

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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Triple A. Triple A is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Triple A 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, Triple A's failure to comply is not a violation of this Order. Triple A shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Triple A shall notify the Executive Director within seven days after Triple A 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 Triple A shall be made in writing to the Executive Director. Extensions are not effective until Triple A 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 Triple A if the Executive Director determines that Triple A 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.

Triple A Dump Truck Services, L.L.C.
TCEQ DOCKET NO. 2006-0076-MSW-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF LAURENCIA N. FASOYIRO

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

“My name is Laurencia N. Fasoyiro. 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, I 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 Triple A Dump Truck Service, L.L.C.” (the “EDPRP”) with the Office of the Chief Clerk on March 1, 2007.

I sent the EDPRP to Triple A at its last known address on March 1, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s First Amended 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 Triple A Dump Truck Service, L.L.C.” (the “EDFARP”) with the Office of the Chief Clerk on June 1, 2007.

I sent the EDFARP to Triple A at its last known address on June 1, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Triple A received notice of the EDFARP on June 4, 2007, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Second Amended 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 Triple A Dump Truck Service, L.L.C.” (the “EDSARP”) with the Office of the Chief Clerk on September 26, 2007.

Triple A Dump Truck Service, L.L.C.
TCEQ Docket No. 2006-0076-MSW-E

AFFIDAVIT OF LAURENCIA N. FASOYIRO

I sent the EDSARP to Triple A at its last known address on September 26, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card", Triple A received notice of the EDSARP on October 13, 2007, as evidenced by the signature on the card.

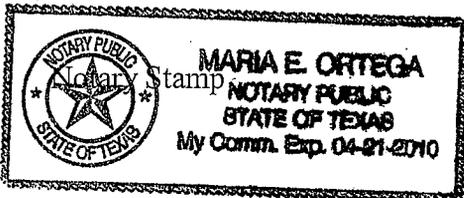
More than 20 days have elapsed since Triple A received notice of the EDPRP, the EDFARP and the EDSARP. Triple A failed to file an answer to the EDPRP, the EDFARP and the EDSARP, failed to request a hearing, and failed to schedule a settlement conference".



Laurencia N. Fasoyiro
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Laurencia N. Fasoyiro, 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 15 day of JAN, A.D., 2008.



Notary Signature