

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Type of Investigation:</p> <p><input 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: None</p> <p>Dates of Investigation Relating to this Case: July 2, 2007</p> <p>Date of NOEs/NOVs Relating to this Case: July 2, 2007 (NOV) and July 9, 2007 (NOE)</p> <p>Background Facts: On January 29, 2008, the Executive Director filed and mailed the EDPRP against Lawrence Jackson. More than 20 days have elapsed since the Respondent received notice of the EDPRP provided by the Executive Director. The Respondent failed to file an Answer to the EDPRP, 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>MLM</p> <p>1. Failed to prevent unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c)].</p> <p>2. Failed to comply with the general prohibition on outdoor burning [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$5,840</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$5,840</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>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 2002</p> | <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Immediately:</p> <p>a. Cease the receipt and storage of additional waste material at the Site; and</p> <p>b. Cease all unauthorized burning of wastes.</p> <p>2. Within 30 days, remove all waste materials on-site and dispose of the wastes at a permitted municipal solid waste disposal facility.</p> <p>3. Within 45 days, submit written, notarized certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the above Ordering Provisions.</p> |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

| | | | | | | |
|-------|----------|-------------|-----------|------------|---------|--|
| DATES | Assigned | 9-Jul-2007 | Screening | 1-Aug-2007 | EPA Due | |
| | PCW | 27-Nov-2007 | | | | |

| | |
|----------------------------------------|------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Lawrence Jackson |
| Reg. Ent. Ref. No. | RN105146674 |
| Facility/Site Region | 9-Waco |
| Major/Minor Source | Minor |

| | | | | |
|-------------------------|-----------------------|-------------------|-------------------|----------|
| CASE INFORMATION | | | | |
| Enf./Case ID No. | 34389 | No. of Violations | 2 | |
| Docket No. | 2007-1245-MLM-E | Order Type | 1660 | |
| Media Program(s) | Municipal Solid Waste | Enf. Coordinator | Marlin Bullard | |
| Multi-Media | Air | EC's Team | EnforcementTeam 7 | |
| Admin. Penalty \$ | Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: Enhancement for two NOV's with the same or similar violations at this site within the past five years.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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: The Respondent does not meet the good faith criteria.

Total EB Amounts Enhancement* **Subtotal 6**

Approx. Cost of Compliance *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: Recommended adjustment to capture the avoided cost benefit associated with the disposal of the municipal solid waste

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: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

Screening Date 1-Aug-2007

Docket No. 2007-1245-MLM-E

PCW

Respondent Lawrence Jackson

Policy Revision 2 (September 2002)

Case ID No. 34389

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105146674

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

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) | 2 | 10% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOV's with the same or similar violations at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 1-Aug-2007

Docket No. 2007-1245-MLM-E

PCW

Respondent Lawrence Jackson

Policy Revision 2 (September 2002)

Case ID No. 34389

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105146674

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to prevent the unauthorized disposal of municipal solid waste, as documented during an investigation on July 2, 2007. Specifically, the Respondent failed to prevent the disposal of approximately 320 cubic yards of municipal solid waste including automobile parts, kitchen appliances, and tires.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | x |
| Potential | | | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

30 Number of violation days

| | |
|--------------|---|
| daily | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the July 2, 2007 investigation date to the August 1, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$2,920

This violation Final Assessed Penalty (adjusted for limits) \$2,920

Economic Benefit Worksheet

Respondent Lawrence Jackson
 Case ID No. 34389
 Reg. Ent. Reference No. RN105146674
 Media Municipal Solid Waste
 Violation No. 1

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|-------|------------|-------------|-----|------|-----|------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 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 | \$520 | 2-Jul-2007 | 10-Mar-2008 | 0.7 | \$18 | n/a | \$18 |
| 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 40 cubic yards of waste at a permitted municipal solid waste landfill at \$13 per cubic yard. The Date Required is the date of the investigation 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

\$520

TOTAL

\$18

Screening Date 1-Aug-2007

Docket No. 2007-1245-MLM-E

PCW

Respondent Lawrence Jackson

Policy Revision 2 (September 2002)

Case ID No. 34389

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN105146674

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health and Safety Code § 382.085(b)

Violation Description

Failed to comply with the general prohibition on outdoor burning, as documented during an investigation conducted on July 2, 2007. Specifically, the Respondent failed to prevent approximately 280 cubic yards of municipal solid waste including automobile parts, kitchen appliances, and tires from igniting and burning at the site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | x |
| Potential | | | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

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

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 \$3,640

Violation Final Penalty Total \$2,920

This violation Final Assessed Penalty (adjusted for limits) \$2,920

Economic Benefit Worksheet

Respondent Lawrence Jackson
Case ID No. 34389
Reg. Ent. Reference No. RN105146674
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 | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

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] | \$3,640 | 2-Jul-2007 | 2-Jul-2007 | 0.0 | \$0 | \$3,640 | \$3,640 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated cost to dispose of approximately 280 cubic yards of waste at a permitted municipal solid waste landfill at \$13 per cubic yard. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Approx. Cost of Compliance

\$3,640

TOTAL

\$3,640

Compliance History

| | | | |
|-----------------------------------------------|------------------------------------|---------------------------------------|------------------------|
| Customer/Respondent/Owner-Operator: | CN603142233 JACKSON, LAWRENCE | Classification: AVERAGE | Rating: 3.01 |
| Regulated Entity: | RN105146674 JACKSON LAWRENCE | Classification: AVERAGE BY DEFAULT | Site Rating: 3.01 |
| ID Number(s): | | | |
| Location: | 9445 CR 343, CALDWELL, TX, 77836 | Rating Date: September 01 06 | Repeat Violator: NO |
| TCEQ Region: | REGION 09 - WACO | | |
| Date Compliance History Prepared: | August 21, 2007 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | August 21, 2002 to August 21, 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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | | |
|---|------------|----------|--|
| 1 | 07/03/2007 | (566409) | |
| 2 | 08/21/2007 | (573045) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---------------------------------------------------------------------------------------------------------------------------|----------|--------------------------|
| Date: | 02/02/2007 | (535398) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 111, SubChapter B 111.201 | | |
| Description: | Burning of unauthorized items. | | |
| Date: | 02/21/2007 | (539936) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 330, SubChapter A 330.4(a) | | |
| Description: | Failure to obtain a permit or other authorization from the commission, authorizing the disposal of municipal solid waste. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 330, SubChapter A 330.5(a)[G] | | |
| Description: | Failure to prevent the unauthorized discharge of municipal solid waste into or adjacent to waters of the state. | | |
- 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
LAWRENCE JACKSON,
RN105146674

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-1245-MLM-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 ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 382, 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 Lawrence Jackson ("Mr. Jackson").

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

FINDINGS OF FACT

1. Mr. Jackson owns and operates an unauthorized municipal solid waste disposal site at 9445 County Road 343 in Caldwell, Burleson County, Texas (the "Site").
2. The Site involves the management and/or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361. In addition, the Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an inspection conducted on July 2, 2007, a TCEQ Waco Regional Office investigator documented that Mr. Jackson:
 - a. Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, Mr. Jackson failed to prevent the disposal of approximately 320 cubic yards of municipal solid waste including automobile parts, kitchen appliances, and tires.
 - b. Failed to comply with the general prohibition on outdoor burning. Specifically, Mr. Jackson failed to prevent approximately 280 cubic yards of municipal solid

waste including automobile parts, kitchen appliances, and tires from igniting and burning at the Site.

4. Mr. Jackson received notice of the violations on or about July 2, 2007.
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 Lawrence Jackson" (the "EDPRP") in the TCEQ Chief Clerk's office on January 29, 2008.
6. By letter dated January 29, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Jackson 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 Mr. Jackson received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Jackson received notice of the EDPRP, provided by the Executive Director. Mr. Jackson 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, Mr. Jackson is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Jackson violated 30 TEX. ADMIN. CODE § 330.15(c) by failing to prevent the unauthorized disposal of municipal solid waste. Specifically, Mr. Jackson failed to prevent the disposal of approximately 320 cubic yards of municipal solid waste including automobile parts, kitchen appliances, and tires.
3. As evidenced by Finding of Fact No. 3.b., Mr. Jackson violated 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH AND SAFETY CODE § 382.085(b) by failing to comply with the general prohibition on outdoor burning. Specifically, Mr. Jackson failed to prevent approximately 280 cubic yards of municipal solid waste including automobile parts, kitchen appliances, and tires from igniting and burning at the Site.
4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Jackson with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).

5. As evidenced by Finding of Fact No. 7, Mr. Jackson 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 Mr. Jackson 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 Mr. Jackson 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 five thousand eight hundred forty dollars (\$5,840.00) 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. Mr. Jackson is assessed an administrative penalty in the amount of five thousand eight hundred forty dollars (\$5,840.00) for violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and rules of the TCEQ. The payment of this administrative penalty and Mr. Jackson'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: Lawrence Jackson; Docket No. 2007-1245-MLM-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. Mr. Jackson shall undertake the following technical requirements:
 - a. Immediately upon the effective date of the Commission Order:
 - i. Cease the receipt and storage of additional waste material at the Site;
 - ii. Cease all unauthorized burning of wastes;
 - b. Within 30 days after the effective date of the Commission Order, remove all waste materials on-site and dispose of the wastes at a permitted municipal solid waste disposal facility; and
 - c. Within 45 days after the effective date of the Commission Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with copies to:

Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

Air Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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

Lawrence Jackson

DOCKET NO. 2007-1245-MLM-E

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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.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF GARY K. SHIU

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Gary K. Shiu. 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 Lawrence Jackson” (the “EDPRP”) with the Office of the Chief Clerk on January 29, 2008.

I sent the EDPRP to Mr. Jackson at his last known address on January 29, 2008 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).

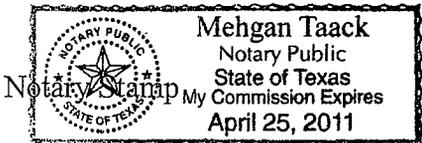
More than 20 days have elapsed since Mr. Jackson received notice of the EDPRP. Mr. Jackson failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Gary K. Shiu
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 24th day of March, A.D., 2008.



Mehgan Taack

Notary Signature