

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0146-MLM-E **TCEQ ID:** RN104662135 **CASE NO.:** 35175

RESPONDENT NAME: River City Waste, Inc.

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 checked="" type="checkbox"/> AIR	<input checked="" 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: 11330 South Blue Wing Road, San Antonio, Bexar County</p> <p>TYPE OF OPERATION: Unauthorized municipal solid waste ("MSW") transfer station</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input 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 June 23, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Micheal Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Cecily Byrom, Vice President, River City Waste, Inc., 4514 Billy Sames, Adkins, Texas 78101 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: October 30, 2007</p> <p>Date of NOV/NOE Relating to this Case: December 12, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE/AIR</p> <p>1) Failure to receive authorization before operating a municipal solid waste ("MSW") transfer station. Specifically, the Respondent was bringing in metal, paper, cardboard, lumber, wood and aluminum cans from off-site and sorting the waste at the Site, before sending it off-site for disposal [30 TEX. ADMIN. CODE § 330.9(a)].</p> <p>2) Failure to comply with the prohibition on outdoor burning. Specifically, a horseshoe shaped pile which contained rock, soil, and some burned woody materials, and which was approximately 15.5 cubic yards was observed at the Site. The approximate amount of material burned was estimated to be 260 cubic yards of MSW [30 TEX. ADMIN. CODE §§ 111.201 and 330.15(c) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,787</p> <p>Total Deferred: \$757 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$1,256 (remaining \$1,774 due in 2 monthly payments of \$887 each)</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 Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order:</p> <p>i. Cease receiving waste until authorized as a transfer station under 30 TEX. ADMIN. CODE § 330.9; and</p> <p>ii. Cease all unauthorized burning at the Site.</p> <p>b. Within 30 days after the effective date of this Agreed Order, ensure that all unauthorized waste, including burned material and ashes, at the Site is removed and properly disposed of at an authorized facility; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

DATES	Assigned	17-Dec-2007			
	PCW	9-Jun-2008	Screening	3-Jan-2008	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	River City Waste, Inc.		
Reg. Ent. Ref. No.	RN104662135		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35175	No. of Violations	2
Docket No.	2008-0146-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Cynthia McKaughan
Multi-Media	Air	EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	20% Enhancement	Subtotals 2, 3, & 7	\$400
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Notes: A twenty percent enhancement is recommended, because there has been an Agreed Order containing a denial of liability in the last five years.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	X (mark with x)	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,439	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$4,993	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,400
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OTHER FACTORS AS JUSTICE MAY REQUIRE	58%	Adjustment	\$1,387
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended adjustment to capture the Economic Benefit associated with the violation.

Final Penalty Amount	\$3,787
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,787
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DEFERRAL	20% Reduction	Adjustment	-\$757
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,030
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Screening Date 3-Jan-2008

Docket No. 2008-0146-MLM-E

PCW

Respondent River City Waste, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35175

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN104662135

Media [Statute] Municipal Solid Waste

Enf. Coordinator Cynthia McKaughan

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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 (<i>number of events</i>)	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 submitted</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) 20%

>> **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

A twenty percent enhancement is recommended, because there has been an Agreed Order containing a denial of liability in the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 3-Jan-2008	Docket No. 2008-0146-MLM-E	PCW
Respondent River City Waste, Inc.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35175		<i>PCW Revision November 6, 2007</i>
Reg. Ent. Reference No. RN104662135		
Media [Statute] Municipal Solid Waste		
Enf. Coordinator Cynthia McKaughan		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	30 Tex. Admin. Code § 330.9(a)	
Violation Description	Failed to receive authorization before operating a municipal solid waste ("MSW") transfer station. Specifically, the Respondent was bringing in metal, paper, cardboard, lumber, wood and aluminum cans from off-site and sorting the waste at the Site, before sending off-site for disposal.	
	Base Penalty	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes	100% of rule requirement was not met.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the October 30, 2007 investigation date to the January 3, 2008 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$159"/>	Violation Final Penalty Total <input type="text" value="\$1,894"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,894"/>	

Economic Benefit Worksheet

Respondent River City Waste, Inc.
Case ID No. 35175
Reg. Ent. Reference No. RN104662135
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				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	\$3,607	30-Oct-2007	15-Sep-2008	0.9	\$159	n/a	\$159
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 460 cubic yards of MSW at an authorized facility. Date Required is the investigation date and Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,607

TOTAL

\$159

Screening Date 3-Jan-2008	Docket No. 2008-0146-MLM-E	PCW
Respondent River City Waste, Inc.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35175		<i>PCW Revision November 6, 2007</i>
Reg. Ent. Reference No. RN104662135		
Media [Statute] Municipal Solid Waste		
Enf. Coordinator Cynthia McKaughan		
Violation Number	2	
Rule Cite(s)	30 Tex. Admin. Code §§ 111.201 and 330.15(c) and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to comply with the prohibition on outdoor burning. Specifically, a horseshoe shaped pile which contained rock, soil, and some burned woody materials, and which was approximately 15.5 cubic yards was observed at the Site. The approximate amount of material burned was estimated to be 260 cubic yards of MSW.	
	Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0%"/>

Matrix Notes
Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1,280"/>	Violation Final Penalty Total <input type="text" value="\$1,894"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,894"/>	

Economic Benefit Worksheet

Respondent River City Waste, Inc.
Case ID No. 35175
Reg. Ent. Reference No. RN104662135
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
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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	\$1,387	30-Oct-2007	15-Sep-2008	0.9	\$61	\$1,219	\$1,280
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

Estimated cost to properly dispose of 260 cubic yards of MSW. Date Required is the investigation date and Final Date is the estimated date of compliance.

Approx. Cost of Compliance

\$1,387

TOTAL

\$1,280

Compliance History

Customer/Respondent/Owner-Operator:	CN603281403 River City Waste, Inc.	Classification: AVERAGE	Rating: 45.00
Regulated Entity:	RN104662135 11330 S BLUE WING RD	Classification: AVERAGE	Site Rating: 45.00
ID Number(s):			
Location:	11330 S BLUE WING RD, SAN ANTONIO, TX, 78223	Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	January 24, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 24, 2003 to January 24, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Cynthia McKaughan	Phone:	(512) 239-0735

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 Effective Date: 05/28/2006 ADMINORDER 2005-1950-MSW-E
 - Classification: Moderate
 - Citation: 30 TAC Chapter 330, SubChapter A 330.5(c)
30 TAC Chapter 330, SubChapter A 330.5(d)
 - Description: Failure to prevent the dumping of municipal solid waste without written authorization of the Commission.
 - 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.)
 - N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
RIVER CITY WASTE, INC.
RN104662135**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0146-MLM-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 River City Waste, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent operates an unauthorized municipal solid waste ("MSW") transfer station with a burn area at 11330 South Blue Wing Road in San Antonio, Bexar County, Texas (the "Site").
2. The Site involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361 and consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 17, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Seven Hundred Eighty-Seven Dollars (\$3,787) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Respondent has paid One Thousand Two Hundred Fifty-Six Dollars (\$1,256) of the administrative penalty and Seven Hundred Fifty-Seven Dollars (\$757) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of One Thousand Seven Hundred Seventy-Four Dollars (\$1,774) of the administrative penalty shall be payable in 2 monthly payments of Eight Hundred Eighty-Seven Dollars (\$887) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 Respondent has agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Site, the Respondent is alleged to have:

1. Failed to receive authorization before operating a MSW transfer station. Specifically, the Respondent was bringing in metal, paper, cardboard, lumber, wood and aluminum cans from off-site and sorting the waste at the Site before sending it off-site for disposal, in violation of 30 TEX. ADMIN. CODE § 330.9(a), as documented during an investigation conducted on October 30, 2007.
2. Failed to comply with the prohibition on outdoor burning. Specifically, a horseshoe shaped pile which contained rock, soil, and some burned woody materials, and which was approximately 15.5

cubic yards was observed at the Site. The approximate amount of material burned was estimated to be 260 cubic yards of MSW, in violation of 30 TEX. ADMIN. CODE §§ 111.201 and 330.15(c) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 30, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: River City Waste, Inc., Docket No. 2008-0146-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Cease receiving waste until authorized as a transfer station under 30 TEX. ADMIN. CODE § 330.9;
 - ii. Cease all unauthorized burning at the Site.
 - b. Within 30 days after the effective date of this Agreed Order, ensure that all unauthorized waste, including burned material and ashes, at the Site is removed and properly disposed of at an authorized facility; and
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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 a copy to:

Waste Section, Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by

facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

River City Waste, Inc.
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Miller
For the Executive Director

Date 11/14/2008

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

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

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

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

Cecily A. Byrom
Signature

Date 10/31/08

CECILY A BYROM
Name (Printed or typed)
Authorized Representative of
River City Waste, Inc.

Title VP

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.

