

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0821-AIR-E TCEQ ID: RN102217734 CASE NO.: 37724**

**RESPONDENT NAME: City of Edinburg**

|   |   |  |
|---|---|--|
| <b>ORDER TYPE:</b>  |   |  |
| <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                    |  |
| <b>CASE TYPE:</b>   |   |  |
| <input checked="" 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 type="checkbox"/> MUNICIPAL SOLID WASTE  | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Edinburg Landfill, 900 East Encinitos Road, Edinburg, Hidalgo County</p> <p><b>TYPE OF OPERATION:</b> Municipal solid waste landfill</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 16, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Kirk Schoppe, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0489; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387<br/> <b>Respondent:</b> The Honorable Richard Garcia, Mayor, City of Edinburg, 900 East Encinitos Road, Edinburg, Texas 78539<br/>                     Mr. Juan Jose Rodriguez, City Manager, City of Edinburg, 900 East Encinitos Road, Edinburg, Texas 78539<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

| VIOLATION SUMMARY CHART:  |   |   |
|---|---|---|
| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 13, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 15, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>AIR</b></p> <p>Failure to use the appropriate test method to determine the methane concentration of the flare. Specifically, the Respondent used a GEM2000 to measure methane concentration instead of the required Method 3C [40 CODE OF FEDERAL REGULATIONS § 60.8(b), 30 TEX. ADMIN. CODE § 101.20(1), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> | <p><b>Total Assessed:</b> \$1,280</p> <p><b>Total Deferred:</b> \$256<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,024</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has conducted a Method 3C performance test on the permanent flare on June 4, 2009.</p> |

Additional ID No(s): HN0018R

**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

|             |              |          |             |     |             |           |            |         |            |
|-------------|--------------|----------|-------------|-----|-------------|-----------|------------|---------|------------|
| <b>ICEQ</b> | <b>DATES</b> | Assigned | 18-May-2009 | PCW | 21-May-2009 | Screening | 2-Jun-2009 | EPA Due | 9-Feb-2010 |
|-------------|--------------|----------|-------------|-----|-------------|-----------|------------|---------|------------|

|  |                  |
|--|------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                  |
| Respondent                             | City of Edinburg |
| Reg. Ent. Ref. No.                     | RN102217734      |
| Facility/Site Region                   | 15-Harlingen     |
| Major/Minor Source                     | Major            |

|                         |                   |                       |                    |
|-------------------------|-------------------|-----------------------|--------------------|
| <b>CASE INFORMATION</b> |                   |                       |                    |
| Enf./Case ID No.        | 37724             | No. of Violations     | 1                  |
| Docket No.              | 2009-0821-AIR-E   | Order Type            | 1660               |
| Media Program(s)        | Air               | Government/Non-Profit | Yes                |
| Multi-Media             |                   | Enf. Coordinator      | Kirk Schoppe       |
| Admin. Penalty \$       | Limit Minimum \$0 | EC's Team             | Enforcement Team 4 |
|                         | Maximum \$10,000  |                       |                    |

|  |   |
|--|---|
| <b>Penalty Calculation Section</b>   |   |
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>  | <b>Subtotal 1</b> \$1,000   |
| <b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>   |   |
| <small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>      |   |
| <b>Compliance History</b>  | 38.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$380  |
| Notes  | The penalty was enhanced due to nine NOVs for dissimilar violations and one 1660 style order. |
| <b>Culpability</b>   | No 0.0% Enhancement <b>Subtotal 4</b> \$0   |
| Notes  | The Respondent does not meet the culpability criteria.  |
| <b>Good Faith Effort to Comply Total Adjustments</b>   | <b>Subtotal 5</b> \$100   |
| <b>Economic Benefit</b>  | 0.0% Enhancement <b>Subtotal 6</b> \$0  |
| Total EB Amounts   | \$17  |
| Approx. Cost of Compliance   | \$1,500   |
|  | <small>*Capped at the Total EB \$ Amount</small>  |
| <b>SUM OF SUBTOTALS 1-7</b>  | <b>Final Subtotal</b> \$1,280   |
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>  | 0.0% <b>Adjustment</b> \$0  |
| <small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>   |   |
| Notes  |   |
|  | <b>Final Penalty Amount</b> \$1,280   |
| <b>STATUTORY LIMIT ADJUSTMENT</b>  | <b>Final Assessed Penalty</b> \$1,280   |
| <b>DEFERRAL</b>  | 20.0% Reduction <b>Adjustment</b> -\$256  |
| <small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small> |   |
| Notes  | Deferral offered for expedited settlement.  |
| <b>PAYABLE PENALTY</b>   | <b>\$1,024</b>  |

**Screening Date** 2-Jun-2009

**Docket No.** 2009-0821-AIR-E

**PCW**

**Respondent** City of Edinburg

Policy Revision 2 (September 2002)

**Case ID No.** 37724

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102217734

**Media [Statute]** Air

**Enf. Coordinator** Kirk Schoppe

### 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)  | 0                 | 0%      |
|                               | Other written NOVs   | 9                 | 18%     |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 1                 | 20%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)                                       | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

**Adjustment Percentage (Subtotal 2)** 38%

>> **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**

The penalty was enhanced due to nine NOVs for dissimilar violations and one 1660 style order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 38%

|   |  |   |   |  |                                      |
|---|--|---|---|--|--------------------------------------|
| <b>Screening Date</b> 2-Jun-2009  | <b>Docket No.</b> 2009-0821-AIR-E  | <b>PCW</b>                                |   |  |                                      |
| <b>Respondent</b> City of Edinburg  | <i>Policy Revision 2 (September 2002)</i>  |   |   |  |                                      |
| <b>Case ID No.</b> 37724  | <i>PCW Revision October 30, 2008</i>   |   |   |  |                                      |
| <b>Reg. Ent. Reference No.</b> RN102217734  |  |   |   |  |                                      |
| <b>Media [Statute]</b> Air  |  |   |   |  |                                      |
| <b>Enf. Coordinator</b> Kirk Schoppe  |  |   |   |  |                                      |
| <b>Violation Number</b> <input type="text" value="1"/>  |  |   |   |  |                                      |
| <b>Rule Cite(s)</b>   | 40 Code of Federal Regulations § 60.8(b), 30 Tex. Admin. Code § 101.20(1), and Tex. Health & Safety Code § 382.085(b)  |   |   |  |                                      |
| <b>Violation Description</b>  | Failed to use the appropriate test method to determine the methane concentration of the flare. Specifically, the Respondent used a GEM2000 to measure methane concentration instead of the required Method 3C. |   |   |  |                                      |
| <b>Base Penalty</b>   |  | <input type="text" value="\$10,000"/>     |   |  |                                      |
| <b>&gt;&gt; Environmental, Property and Human Health Matrix</b>   |  |   |   |  |                                      |
| <b>OR</b>   | <b>Harm</b>  |   |   |  |                                      |
|   | Release  | Major                                     | Moderate  | Minor  |                                      |
|   | Actual   | <input type="text"/>                      | <input type="text"/>                                      | <input type="text"/>   |                                      |
|   | Potential  | <input type="text"/>                      | <input type="text"/>                                      | <input checked="" type="text" value="x"/>                          |                                      |
|   |  |   |   | <b>Percent</b> <input type="text" value="10%"/>                    |                                      |
| <b>&gt;&gt; Programmatic Matrix</b>   |  |   |   |  |                                      |
|   | Falsification  | Major                                     | Moderate  | Minor  |                                      |
|   | <input type="text"/>   | <input type="text"/>                      | <input type="text"/>                                      | <input type="text"/>   |                                      |
|   |  |   |   | <b>Percent</b> <input type="text" value="0%"/>                     |                                      |
| <b>Matrix Notes</b>   | Failure to use the correct test method could have resulted in the release of an insignificant amount of pollutants which would not exceed levels protective of human health and/or the environment.            |   |   |  |                                      |
| <b>Adjustment</b>   |  |   |   | <input type="text" value="\$9,000"/>                               |                                      |
|   |  |   |   | <input type="text" value="\$1,000"/>                               |                                      |
| <b>Violation Events</b>   |  |   |   |  |                                      |
| <b>Number of Violation Events</b>   |  | <input type="text" value="1"/>            | <input type="text" value="512"/>                          | <b>Number of violation days</b>                                    |                                      |
| <i>mark only one with an x</i>  | daily  | <input type="text"/>                      |   |  |                                      |
|   | weekly   | <input type="text"/>                      |   |  |                                      |
|   | monthly  | <input type="text"/>                      |   |  |                                      |
|   | quarterly  | <input type="text"/>                      |   |  |                                      |
|   | semiannual   | <input type="text"/>                      |   |  |                                      |
|   | annual   | <input type="text"/>                      |   |  |                                      |
|   | single event   | <input checked="" type="text" value="x"/> |   |  |                                      |
| <input type="text" value=""/>   |  |   |   | <b>Violation Base Penalty</b> <input type="text" value="\$1,000"/> |                                      |
| <input type="text" value="One single event is recommended based on the one failure to properly test."/> |  |   |   |  |                                      |
| <b>Good Faith Efforts to Comply</b>   |  |   | <input type="text" value="10.0%"/>                        | <b>Reduction</b>   |                                      |
|   |  |   | <small>Before NOV    NOV to EDRP/Settlement Offer</small> |  |                                      |
| Extraordinary   | <input type="text"/>   |   |   |  |                                      |
| Ordinary  | <input type="text"/>   | <input checked="" type="text" value="x"/> |   |  |                                      |
| N/A   | <input type="text"/>   | <small>(mark with x)</small>              |   |  |                                      |
| <b>Notes</b>  | The Respondent returned to compliance by 08/04/2009, and the NOE is dated 05/15/2009.  |   |   |  |                                      |
| <b>Violation Subtotal</b>   |  |   |   | <input type="text" value="\$900"/>                                 |                                      |
| <b>Economic Benefit (EB) for this violation</b>   |  |   | <b>Statutory Limit Test</b>                               |  |                                      |
| <b>Estimated EB Amount</b>  |  | <input type="text" value="\$17"/>         | <b>Violation Final Penalty Total</b>                      |  | <input type="text" value="\$1,280"/> |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b>                                      |  |   |   |  | <input type="text" value="\$1,280"/> |

## Economic Benefit Worksheet

**Respondent:** City of Edinburg  
**Case ID No.:** 37724  
**Reg. Ent. Reference No.:** RN102217734  
**Media:** Air  
**Violation No.:** 1

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

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

**Delayed Costs**

|                          |         |             |            |      |      |     |      |
|--------------------------|---------|-------------|------------|------|------|-----|------|
| Equipment                |         |             |            | 0.00 | \$0  | \$0 | \$0  |
| Buildings                |         |             |            | 0.00 | \$0  | \$0 | \$0  |
| Other (as needed)        |         |             |            | 0.00 | \$0  | \$0 | \$0  |
| Engineering/construction |         |             |            | 0.00 | \$0  | \$0 | \$0  |
| Land                     |         |             |            | 0.00 | \$0  | n/a | \$0  |
| Record Keeping System    |         |             |            | 0.00 | \$0  | n/a | \$0  |
| Training/Sampling        | \$1,500 | 13-Mar-2009 | 4-Jun-2009 | 0.23 | \$17 | n/a | \$17 |
| Remediation/Disposal     |         |             |            | 0.00 | \$0  | n/a | \$0  |
| Permit Costs             |         |             |            | 0.00 | \$0  | n/a | \$0  |
| Other (as needed)        |         |             |            | 0.00 | \$0  | n/a | \$0  |

Notes for DELAYED costs

Estimated cost to perform a Method 3C performance test on the flare. Date Required is the date of the investigation. Final Date is the date of compliance.

**Avoided Costs**

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

|                               |  |  |  |      |     |     |     |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal                      |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

|                            |         |              |      |
|----------------------------|---------|--------------|------|
| Approx. Cost of Compliance | \$1,500 | <b>TOTAL</b> | \$17 |
|----------------------------|---------|--------------|------|

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600647978 City of Edinburg Classification: AVERAGE Rating: 8.48  
Regulated Entity: RN102217734 CITY OF EDINBURG LANDFILL Classification: AVERAGE Site Rating: 9.00

|               |                                |                |            |
|---------------|--------------------------------|----------------|------------|
| ID Number(s): | AIR EMISSIONS INVENTORY        | ACCOUNT NUMBER | HN0018R    |
|               | MUNICIPAL SOLID WASTE DISPOSAL | PERMIT         | 956B       |
|               | MUNICIPAL SOLID WASTE DISPOSAL | PERMIT         | 2302       |
|               | STORMWATER                     | PERMIT         | TXR05Y266  |
|               | USED OIL                       | REGISTRATION   | HAU0055    |
|               | SLUDGE                         | REGISTRATION   | 23165      |
|               | AIR OPERATING PERMITS          | PERMIT         | 2841       |
|               | AIR NEW SOURCE PERMITS         | ACCOUNT NUMBER | HN0018R    |
|               | AIR NEW SOURCE PERMITS         | REGISTRATION   | 81830      |
|               | AIR NEW SOURCE PERMITS         | AFS NUM        | 4821500651 |

Location: 900 E ENCINITOS RD, EDINBURG, TX, 78539

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: May 19, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 19, 2004 to May 19, 2009

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

Name: Kirk Schoppe Phone: 239 - 0489

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

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

Effective Date: 02/05/2006

ADMINORDER 2004-0382-MSW-E

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.111

Rqmt Prov: Permit MSW No. 956-B section 1.25.1 OP

Description: Failure to place daily six inches of soil or approved alternate daily cover on the top and sides of the working area of the landfill.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.111

Rqmt Prov: Permit MSW No. 956-B, section 1.25.2 OP

Description: Failure to provide intermediate cover of at least 12 inches of well compacted earthen material not previously mixed with garbage, rubbish, or other solid waste to all areas that will receive

additional waste but will be inactive for longer than 180 days.

Classification: Minor

Citation: 30 TAC Chapter 330, SubChapter F 330.111

Rqmt Prov: Permit MSW No. 956-B, section 1.25.5 OP

Description: Failure to document on a daily log those areas where daily cover, intermediate cover, and final cover have been placed.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.120

Rqmt Prov: Section 1.12 PERMIT

Description: Failure to operate the site in such a way as to minimize windblown material.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.132

Rqmt Prov: Section 1.24 PERMIT

Description: Failure to compact and shape the waste with a compactor to a working-lift thickness of about two feet, and track on the material sufficiently to minimize voids and produce a compact mass.

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  | 07/28/2004 | (284791) |
| 2  | 10/18/2004 | (333489) |
| 3  | 02/10/2005 | (348845) |
| 4  | 02/25/2005 | (336309) |
| 5  | 04/25/2005 | (376105) |
| 6  | 05/25/2005 | (393600) |
| 7  | 09/28/2005 | (432863) |
| 8  | 12/28/2005 | (436323) |
| 9  | 05/31/2006 | (464514) |
| 10 | 07/28/2006 | (488800) |
| 11 | 10/18/2006 | (510176) |
| 12 | 01/09/2007 | (534664) |
| 13 | 01/31/2007 | (535162) |
| 14 | 02/20/2007 | (541270) |
| 15 | 03/06/2007 | (541467) |
| 16 | 07/20/2007 | (561373) |
| 17 | 07/20/2007 | (561914) |
| 18 | 07/20/2007 | (566104) |
| 19 | 01/16/2008 | (612220) |
| 20 | 05/30/2008 | (681620) |
| 21 | 05/31/2008 | (517600) |
| 22 | 02/27/2009 | (727222) |
| 23 | 04/10/2009 | (708126) |
| 24 | 05/15/2009 | (740734) |

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

Date: 07/26/2004 (279312)

CN600647978

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.111  
30 TAC Chapter 330, SubChapter F 330.133(a)  
MSW SOP: Section 1.25.1-Daily Cover OP

Description: Failure to provide six-inches of well-compacted earthen material not previously mixed with garbage, rubbish, or other solid waste at the end of each operating day to control disease vectors, fires, odors, windblown litter or waste and

scavenging.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 330, SubChapter F 330.111  
30 TAC Chapter 330, SubChapter F 330.133(g)  
MSW SOP: Section 1.25.5 OP  
Description: Failure to maintain a cover application log on site readily available for inspection by commission representatives, specify the type of cover, the date applied, how cover was accomplished, the last area covered and that each entry be certified by the signature of the on-site supervisor.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter F 330.111  
30 TAC Chapter 330, SubChapter F 330.132  
MSW SOP: Section 1.24 OP  
Description: Failure to compact and shape the waste in a working-lift thickness of about two feet, and track on the material sufficiently to minimize voids and produce a compact mass.

Date: 09/13/2004 (290316) CN600647978

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 324, SubChapter A 324.4(2)(B)  
Description: Failure to prevent the direct disposal of used oil on land.

Date: 10/18/2004 (333489) CN600647978

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter F 330.111  
30 TAC Chapter 330, SubChapter F 330.133(a)  
MSW SOP: Section 1.25.1-Daily Cover OP  
Description: Failure to provide six-inches of well-compacted earthen material not previously mixed with garbage, rubbish, or other solid waste at the end of each operating day to control disease vectors, fires, odors, windblown litter or waste and scavenging.

Date: 02/25/2005 (336309) CN600647978

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 330, SubChapter F 330.111  
Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, the Groundwater Sampling and Analysis Plan and all other documents and plans in the operating record.

Date: 04/22/2005 (376105) CN600647978

Self Report? NO Classification: Minor  
Citation: MSGP, Part III Section A (4) (a) PERMIT  
Description: Failure to include tires, brush, and scrap metal in inventory of exposed material.  
Self Report? NO Classification: Minor  
Citation: MSGP, Part III, Section A (4) (c) (8) PERMIT  
Description: Failure to show tires on the site map.  
Self Report? NO Classification: Minor  
Citation: MSGP, Part III, Section A(5)(f) PERMIT  
Description: Failure to provide Laura Olivares with annual SWP3 training.  
Self Report? NO Classification: Minor  
Citation: MSGP, Part III, A(7)(c) PERMIT  
Description: Failure to prepare site compliance evaluation report for April 02, 2004 and March 28, 2005.

Date: 05/25/2005 (393600) CN600647978

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 324, SubChapter A 324.4(2)(B)  
Description: Failure to prevent the direct disposal of used oil on land.

Date: 03/01/2006 (457132)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 101, SubChapter A 101.4  
Description: Failure to prevent a discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property

Date: 01/10/2007 (534664) CN600647978

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter E 330.56(n)(1)(B)  
Description: Failure to ensure that the concentration of methane gas does not exceed 5% by volume in monitoring points, probes, subsurface soils, or other matrices at the facility boundary defined by the legal description in the permit.

Date: 02/27/2009 (727222) CN600647978

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter A 330.15(e)(4)  
Section 4.2.2 of Site Operating Plan PERMIT

Description: Failure to prevent the acceptance of a prohibited waste.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 330, SubChapter D 330.137  
Section 4.7 - of Site Operating Plan PERMIT

Description: Failure to display a sign measuring at least four feet by four feet with letters at least three inches in height stating the type of site, the hours and days of operation, an emergency 24-hour contact phone number(s), the local emergency fire department phone number, and the permit number or facility number.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 330, SubChapter D 330.165(a)  
Section 4.21 of Site Operating Plan PERMIT

Description: Failure to apply six inches of well-compacted earthen material not previously mixed with garbage, rubbish, or other solid waste at the end of each operating day.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter D 330.165(h)  
Section 4.21 of Site Operating Plan PERMIT

Description: Failure to conduct inspections of final and intermediate cover.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 330, SubChapter D 330.121(a)  
Section 4.7 of Site Operating Plan PERMIT

Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 330, SubChapter D 330.121(a)  
Section 4.12 of Site Operating Plan. PERMIT

Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 330, SubChapter D 330.121(a)  
Section 4.5 of Site Operating Plan PERMIT

Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 330, SubChapter D 330.121(a)  
Section 1.2 of Site Operating Plan PERMIT

Description: Failure to adhere to the operational requirements in the approved Site Development Plan, the Site Operating Plan, the Final Closure Plan and the Post-Closure Maintenance Plan, the Landfill Gas Management Plan, and all other documents and plans in the operating record.

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  
CITY OF EDINBURG  
RN102217734**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-0821-AIR-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 the City of Edinburg ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a municipal solid waste landfill at 900 East Encinitos Road in Edinburg, Hidalgo County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about May 20, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Two Hundred Eighty Dollars (\$1,280) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Thousand Twenty-Four Dollars (\$1,024) of the administrative penalty and Two Hundred Fifty-Six Dollars (\$256) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred

amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

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 City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has conducted a Method 3C performance test on the permanent flare on June 4, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Site, the City is alleged to have failed to use the appropriate test method to determine the methane concentration of the flare, in violation of 40 CODE OF FEDERAL REGULATIONS § 60.8(b), 30 TEX. ADMIN. CODE § 101.20(1), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on March 13, 2009. Specifically, the City used a GEM2000 to measure methane concentration instead of the required Method 3C.

## III. DENIALS

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

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City'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: City of Edinburg, Docket No. 2009-0821-AIR-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the City. The City 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against the City 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.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

10/09/2009 FRI 14:28 FAX

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City of Edinburg  
DOCKET NO. 2009-0821-AIR-E  
Page 4

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

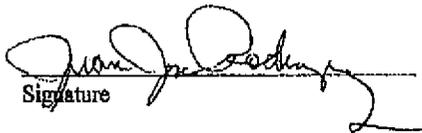
\_\_\_\_\_  
Date 10/13/2009

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.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date October 9, 2009

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Edinburg

\_\_\_\_\_  
Title City Manager

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.