

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0874-MLM-E TCEQ ID: RN105093355 CASE NO.: 34170
RESPONDENT NAME: JOHN R. BRICKLE, JR.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

SITE WHERE VIOLATION(S) OCCURRED: 269 Valley Meadows Drive, Springtown, Parker County

TYPE OF OPERATION: unauthorized disposal site with burn area

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: One complaint was received, alleging that trash was being brought back to the site and sorted and placed into 2 large dumpsters (leased through IESI) on the Site. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired November 2, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
TCEQ Enforcement Coordinator: Mr. Ross Fife, Waste Enforcement Section, MC 128, (512) 239-2541
TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903
Respondent: Mr. John R. Brickle, Jr., 269 Valley Meadows Drive, Springtown, Texas 76082
Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: October 16, 2006</p> <p>Dates of Investigation Relating to this Case: October 30, 2006 (initial NOV investigation) May 2, 2007 (follow-up)</p> <p>Date of NOE Relating to this Case: August 2, 2007</p> <p>Background Facts: The case was screened by the Enforcement Division on July 11, 2007, and the Enforcement Division mailed a proposed agreed order to the Respondent on August 2, 2007. *The Respondent remitted an initial payment of \$140 on October 15, 2007, but failed to submit the signed agreed order. The Enforcement Division repeatedly contacted the Respondent and requested that he remit the signed order, but were ultimately unsuccessful. The case was referred to the Litigation Division on August 6, 2009. The EDPRP was filed on August 24, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card", the Respondent received notice of the EDPRP on August 25, 2009. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to comply with the prohibition on outdoor burning [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to dispose of municipal solid waste at an authorized facility [30 TEX. ADMIN. CODE § 330.15(c)]. 	<p>Total Assessed: \$2,100</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$140/\$1,960</p> <p>The Respondent paid \$140 of the administrative penalty.* The remaining amount of \$1,960 shall be paid within 30 days after the effective date of the 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> <ol style="list-style-type: none"> Immediately cease disposing of any additional waste and cease all unauthorized burning at the Site. Within 30 days, ensure that all unauthorized waste, including burned material, at the Site is removed and properly disposed of at an authorized facility. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions Nos. 1 and 2.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

DATES	Assigned	29-May-2007	Screening	11-Jul-2007	EPA Due	
	PCW	11-Aug-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	John R. Brickle, Jr.
Reg. Ent. Ref. No.	RN105093355
Facility/Site Region	4-Dallas/ Fort Worth
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34170	No. of Violations	2	
Docket No.	2007-0874-MLM-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Ross Fife	
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	5% Enhancement	Subtotals 2, 3, & 7	\$100
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Notes: The Respondent received one NOV for same or similar violations at the site in the past 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		
Ordinary		
N/A	X	(mark with x)

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

Total EB Amounts	\$59	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$440	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,100
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$2,100
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,100
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DEFERRAL	0% Reduction	Adjustment	\$0
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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	\$2,100
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Screening Date 11-Jul-2007

Docket No. 2007-0874-MLM-E

PCW

Respondent John R. Brickle, Jr.

Policy Revision 2 (September 2002)

Case ID No. 34170

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105093355

Media [Statute] Municipal Solid Waste

Enf. Coordinator Ross Fife

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received one NOV for same or similar violations at the site in the past five years.

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

Screening Date 11-Jul-2007

Docket No. 2007-0874-MLM-E

PCW

Respondent John R. Brickle, Jr.

Policy Revision 2 (September 2002)

Case ID No. 34170

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105093355

Media [Statute] Municipal Solid Waste

Enf. Coordinator Ross Fife

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="X"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent John R. Brickle, Jr.
Case ID No. 34170
Reg. Ent. Reference No. RN105093355
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
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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	\$50	2-May-2007	27-Feb-2008	0.8	\$2	\$41	\$43
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 one cubic yard of waste and to ensure that unauthorized burning does not occur at the site. Date Required is the investigation date and Final Date is the estimated date of compliance.

Approx. Cost of Compliance

\$50

TOTAL

\$43

Screening Date 11-Jul-2007

Docket No. 2007-0874-MLM-E

PCW

Respondent John R. Brickle, Jr.

Policy Revision 2 (September 2002)

Case ID No. 34170

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105093355

Media [Statute] Municipal Solid Waste

Enf. Coordinator Ross Fife

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to dispose of municipal solid waste (MSW) at an authorized facility, as documented during an investigation conducted on May 2, 2007. Specifically, the Respondent disposed of approximately 30 cubic yards of MSW including furniture, wood, brush, tires, old cars, metal siding, lawn equipment and other waste 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 as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

70 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 May 2, 2007 investigation date to the July 11, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent John R. Brickle, Jr.
Case ID No. 34170
Reg. Ent. Reference No. RN105093355
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
<small>No commas or \$</small>							

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	\$390	2-May-2007	27-Feb-2008	0.8	\$16	n/a	\$16
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 30 cubic yards of MSW (\$13 per cubic yard) 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)

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

\$390

TOTAL

\$16

Compliance History

Customer/Respondent/Owner-Operator:	CN603113903 BRICKLE, JOHN R Jr.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105093355 JOHN R BRICKLE PROPERTY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER		455040171
Location:	269 VALLEY MEADOWS DR, SPRINGTOWN, TX, 76082	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	July 11, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 11, 2002 to July 11, 2007		

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

Name: Dana Shuler Phone: (512) 239-2505

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CEEDS Inv. Track. No.)
1 05/23/2007 (560579)
- E. Written notices of violations (NOV). (CEEDS Inv. Track. No.)
Date: 12/08/2006 (517972)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.7(a)
Description: Failure to obtain proper authorization prior to processing trash.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THC Chapter 382, SubChapter A 382.085(b)
Description: Failure to comply with the general prohibition on outdoor burning within the State of Texas as required by 30 TAC 111.201.
- 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
JOHN R. BRICKLE, JR.
RN105093355**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2007-0874-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 John R. Brickle, Jr. ("Mr. Brickle").

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

FINDINGS OF FACT

1. Mr. Brickle owns and operates an unauthorized disposal site with a burn area located at 269 Valley Meadows Drive, Springtown, Parker County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12) and involves the management and/or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection on May 2, 2007, a TCEQ DFW Regional Office investigator documented that Mr. Brickle:
 - a. Failed to comply with the prohibition on outdoor burning. Specifically, burned brush and metal pieces were observed at the Site; and
 - b. Failed to dispose of municipal solid waste ("MSW") at an authorized facility. Specifically, Mr. Brickle disposed of approximately 30 cubic yards of MSW

including furniture, wood, brush, tires, old cars, metal siding, lawn equipment and other waste at the Site.

4. Mr. Brickle received notice of the violations on or about August 7, 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 John R. Brickle, Jr." (the "EDPRP") in the TCEQ Chief Clerk's office on August 24, 2009.
6. By letter dated August 24, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Brickle with notice of the EDPRP. According to the return receipt "green card", Mr. Brickle received notice of the EDPRP on August 25, 2009, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Brickle received notice of the EDPRP, provided by the Executive Director. Mr. Brickle failed to file an answer, 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. Brickle is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, 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. Brickle failed to comply with the prohibition on outdoor burning, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 3.b., Mr. Brickle failed to dispose of MSW at an authorized facility, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Brickle with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 7, Mr. Brickle failed to file a timely answer 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. Brickle 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. Brickle 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 two thousand one hundred dollars (\$2,100.00) 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. Brickle is assessed an administrative penalty in the amount of two thousand one hundred dollars (\$2,100.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Mr. Brickle'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: John R. Brickle, Jr.; Docket No. 2007-0874-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. Brickle shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Mr. Brickle shall cease disposing of any additional waste and cease all unauthorized burning at the Site.
 - b. Within 30 days after the effective date of this Order, Mr. Brickle shall ensure that all unauthorized waste, including burned material, at the Site is removed and properly disposed of at an authorized facility.
 - c. Within 45 days after the effective date of this Order, Mr. Brickle shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Mr. Brickle shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. 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
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. Brickle. Mr. Brickle is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Mr. Brickle 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. Brickle's failure to comply is not a violation of this Order. Mr. Brickle shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Brickle shall notify the Executive Director within seven days after Mr. Brickle 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. Brickle shall be made in writing to the Executive Director. Extensions are not effective until Mr. Brickle 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. Brickle if the Executive Director determines that Mr. Brickle has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

John R. Brickle, Jr.
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF SHARESASA Y. ALEXANDER

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Sharesa Y. Alexander. 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, 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 John R. Brickle, Jr.” (the “EDPRP”) was filed with the Office of the Chief Clerk on August 24, 2009.

I sent the EDPRP to Mr. Brickle at his last known address on August 24, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Mr. Brickle received notice of the EDPRP on August 25, 2009, as evidenced by the signature on the card.

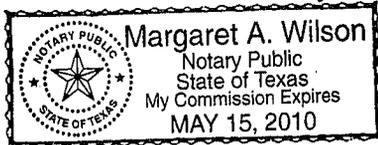
More than 20 days have elapsed since Mr. Brickle received notice of the EDPRP. Mr. Brickle failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference”.



Sharesa Y. Alexander
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 15th day of SEPTEMBER, A.D., 2009.



Notary Stamp

Margaret Wilson
Notary Signature