

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0563-MSW-E TCEQ ID: RN104789045 CASE NO.: 28386
RESPONDENT NAME: CASEY CROY

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2324 Farm-to-Market Road 2905, Hamilton, Hamilton County</p> <p>TYPE OF OPERATION: Unauthorized municipal solid waste site</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. The Respondent owes \$1,146.90 in past-due administrative penalties.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Tracy Chandler, Litigation Division, MC 175, (512) 239-0629 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 128, (512) 239-6933 TCEQ Regional Contact: Mr. Frank Bureson, Waco Regional Office, MC R-9, (254) 761-3007 Respondent: Mr. Casey Croy, 2324 Farm-to-Market Road 2905, Hamilton, TX 76531 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Date of Investigation Relating to this Case: February 14, 2008</p> <p>Date of NOE Relating to this Case: March 10, 2008</p> <p>Background Facts: The EDPRP was filed on June 17, 2008. It was mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating the Respondent received notice of the EDPRP. The Respondent failed to answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>MSW: Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c) and TCEQ Default Order, Docket No. 2006-0191-MSW-E, Ordering Provision Nos. 2.b. and 2.c].</p>	<p>Total Assessed: \$3,960</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$3,960</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease disposing of any additional waste. 2. Within 30 days, remove all municipal solid waste and dispose of the waste at an authorized facility. 3. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions 1 and 2.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

DATES	Assigned	10-Mar-2008			
	PCW	1-Apr-2008	Screening	2-Apr-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Casey Croy
Reg. Ent. Ref. No.	RN104789045
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	28386	No. of Violations	1	
Docket No.	2008-0563-MSW-E	Order Type	Findings	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Clinton Sims	
Multi-Media		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)	<i>Subtotal 1:</i>	\$3,000
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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	32% Enhancement	<i>Subtotals 2, 3, & 7:</i>	\$960
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Notes: The Respondent received one NOV with same or similar violations, one NOV without same or similar violations and one Default Order Docket No. 2006-0191-MSW-E.

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

Good Faith Effort to Comply	0% Reduction	<i>Subtotal 5:</i>	\$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	\$239	0% Enhancement	<i>Subtotal 6:</i>	\$0
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Approx. Cost of Compliance: \$3,726
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal:</i>	\$3,960
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	<i>Adjustment:</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$3,960

STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$3,960
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DEFERRAL	0% Reduction	<i>Adjustment:</i>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$3,960
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Screening Date 2-Apr-2008

Docket No. 2008-0563-MSW-E

PCW

Respondent Casey Croy

Policy Revision 2 (September 2002)

Case ID No. 28386

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN104789045

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

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	1	2%
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	1	25%
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 judgments 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) 32%

>> 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 with same or similar violations, one NOV without same or similar violations and one Default Order Docket No. 2006-0191-MSW-E.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 32%

Screening Date 2-Apr-2008 **Docket No.** 2008-0563-MSW-E **PCW**
Respondent Casey Croy *Policy Revision 2 (September 2002)*
Case ID No. 28386 *PCW Revision February 29, 2008*
Reg. Ent. Reference No. RN104789045
Media [Statute] Municipal Solid Waste
Enf. Coordinator Clinton Sims
Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 330.15(c), TCEQ Default Order Docket No. 2006-0191-MSW-E, Ordering Provisions 2.b. and 2.c.
Violation Description Failed to prevent the unauthorized disposal of municipal solid waste, as documented during an investigation conducted on February 14, 2008. Specifically, the Respondent allowed approximately 138 cubic yards of construction debris to be disposed of at the Site. In Addition, the Respondent failed to comply with TCEQ Default Order Docket No. 2006-0191-MSW-E, Ordering Provisions 2.b. and 2.c. Specifically, the Respondent failed to ensure that all the unauthorized waste at the Site was removed and properly disposed of at an authorized facility.
Base Penalty

>> Environmental Property and Human Health Matrix
OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent
>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent
Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.
Adjustment

Violation Events
Number of Violation Events **Number of violation days**

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty
Three quarterly events are recommended from the August 23, 2007 effective date to the April 2, 2008 screening date.

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 Casey Croy
Case ID No. 28386
Reg. Ent. Reference No. RN104789045
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$3,726	23-Aug-2007	3-Dec-2008	1.3	\$239	n/a	\$239
Permit Costs					\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove the municipal solid waste and dispose of it at an authorized municipal solid waste disposal facility (\$27 per cubic yard). The Date Required is the effective date of TCEQ Default Order Docket No. 2006-0191-MSW-E and the Final Date is the expected 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

\$3,726

TOTAL

\$239

Compliance History

Customer/Respondent/Owner-Operator: CN602936163 CROY, CASEY Classification: AVERAGE Rating: 27.00
Regulated Entity: RN104789045 2324 FM 2905 Classification: AVERAGE Site Rating: 27.00
ID Number(s):
Location: 2324 FM 2905, HAMILTON, TX, 76531 Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: April 02, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 02, 2003 to April 02, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Clinton Sims Phone: (512) 239-6933

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: 08/23/2007 ADMINORDER 2006-0191-MSW-E
Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.5(c)
Description: Failed to dispose municipal solid waste at an authorized Site.
- 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 | 12/14/2005 | (440057) |
|---|------------|----------|
- N/A
- | | | |
|---|------------|----------|
| 2 | 02/10/2006 | (453154) |
| 3 | 03/07/2008 | (618933) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|--------------|---|--------------------------|
| Date: | 11/08/2005 | (436534) |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 111, SubChapter B 111.201 | |
| Description: | Failure to comply with the Outdoor Burning Rules of the State Of Texas. | |
| Date: | 11/16/2005 | (436550) |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 330, SubChapter A 330.5(c) | |
| Description: | Failed to dispose municipal solid waste at an authorized Site. | |
- 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
CASEY CROY;
RN104789045**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-0563-MSW-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 ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Casey Croy ("Mr. Croy").

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

FINDINGS OF FACT

1. Mr. Croy owns and operates an unauthorized municipal solid waste site located at 2324 Farm-to-Market Road 2905, Hamilton, Hamilton County, Texas (the "Site").
2. The Site involves the management and/or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on February 14, 2008, a TCEQ Waco Regional Office investigator documented that Mr. Croy failed to prevent the unauthorized disposal of municipal solid waste. Specifically, Mr. Croy allowed approximately 138 cubic yards of construction debris to be disposed of at the Site. In addition, Mr. Croy failed to comply with TCEQ Default Order, Docket No. 2006-0191-MSW-E, Ordering Provision Nos. 2.b. and 2.c. Specifically, Mr. Croy failed to ensure that all the unauthorized waste at the Site was removed and properly disposed of at an authorized facility.
4. Mr. Croy received notice of the violations on or about March 15, 2008.
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 Casey Croy" (the "EDPRP") in the TCEQ Chief Clerk's office on June 17, 2008.

6. By letter dated June 17, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Croy with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Croy received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Croy received notice of the EDPRP, provided by the Executive Director. Mr. Croy failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Croy is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Croy failed to prevent the unauthorized disposal of municipal solid waste, in violation of 30 TEX. ADMIN. CODE § 330.15(c) and TCEQ Default Order, Docket No. 2006-0191-MSW-E, Ordering Provision Nos. 2.b. and 2.c. Specifically, Mr. Croy allowed approximately 138 cubic yards of construction debris to be disposed of at the Site. In addition, Mr. Croy failed to comply with TCEQ Default Order, Docket No. 2006-0191-MSW-E, Ordering Provision Nos. 2.b. and 2.c. Specifically, Mr. Croy failed to ensure that all the unauthorized waste at the Site was removed and properly disposed of at an authorized facility.
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Croy with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 7, Mr. Croy failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Croy and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Croy 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.

6. An administrative penalty in the amount of three thousand nine hundred sixty dollars (\$3,960.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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. Croy is assessed an administrative penalty in the amount of three thousand nine hundred sixty dollars (\$3,960.00) for violations of the Texas Health & Safety Code, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Croy'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: Casey Croy; Docket No. 2008-0563-MSW-E" to:

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

2. Mr. Croy shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. Croy shall cease disposing of any additional waste at the Site.
 - b. Within 30 days after the effective date of this Order, Mr. Croy shall remove all municipal solid waste and dispose of the wastes at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 330.15(c).

- c. Within 45 days after the effective date of this Order, Mr. Croy shall submit written certification and detailed supporting documentation, including photographs, receipts, and 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 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. Croy shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 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:

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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Croy. Mr. Croy 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. Croy 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. Croy's failure to comply is not a violation of this Order. Mr. Croy shall have the burden of establishing to the Executive Director's satisfaction that such an

event has occurred. Mr. Croy shall notify the Executive Director within seven days after Mr. Croy 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. Croy shall be made in writing to the Executive Director. Extensions are not effective until Mr. Croy 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. Croy if the Executive Director determines that Mr. Croy 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.

Casey Croy
Docket No. 2008-0563-MSW-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF MARY R. RISNER

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Mary R. Risner. 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 Casey Croy” (the “EDPRP”) was filed with the Office of the Chief Clerk on June 17, 2008.

The EDPRP was mailed to Mr. Croy at his last known address on June 17, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that Mr. Croy received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

Mary R. Risner
Mary R. Risner, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Mary R. Risner, 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 5 day of August D., 2008.

Margaret Jackson
Notary Signature

