

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1630-MLM-E TCEQ ID: RN101784726 CASE NO.: 34759
RESPONDENT NAME: LEAGUE CITY PAVING COMPANY, INC.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" 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
<p>SITE WHERE VIOLATION(S) OCCURRED: 2514 Anders Lane, Kemah, Galveston County</p> <p>TYPE OF OPERATION: Asphalt paving company</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 23, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297 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: Ms. Nicole Bealle, Houston Regional Office, MC , (713) 767-3623 Respondent: Mr. Ellis Hamberg, President, League City Paving Company, Inc., 2514 Anders Lane, Kemah, Texas 77565 Respondent's Attorney: Mr. John S. Powell, The Powell Law Firm, 2405 South Grand Blvd., Pearland, Texas 77581</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 21, 2007</p> <p>Date of NOE Relating to this Case: July 17, 2007</p> <p>Background Facts: The case was referred to the Litigation Division January 29, 2008. The EDPRP was filed March 11, 2008. The Respondent filed an answer and the case was referred to SOAH. A signed Agreed Order was received on January 26, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to demonstrate compliance.</p> <p>MLM:</p> <p>1. Failed to prevent the discharge of industrial waste into or adjacent to waters in the state [30 TEX. ADMIN. CODE § 335.4(1) and TEXAS WATER CODE § 26.121(a)].</p> <p>2. Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN CODE § 330.15(c)].</p>	<p>Total Assessed: \$7,350</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: \$350/\$7,000</p> <p>The Respondent has paid \$350 of the administrative penalty. The remaining amount of \$7,000 of the administrative penalty shall be payable in 35 monthly payments of \$200 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, <ol style="list-style-type: none"> a. Cease accepting or disposing of any additional municipal solid waste at the Site; and b. Cease discharging any additional waste onto to the ground or into or adjacent to any waters in the state. 2. Within 30 days, remove and properly dispose of all the waste at the Site. 3. Within 45 days, submit an Affected Property Assessment Report to the Executive Director for approval and if response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program. 4. Within 60 days, submit written certification to demonstrate compliance with these Ordering Provisions.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

DATES	Assigned	27-Sep-2007	Screening	9-Oct-2007	EPA Due	
	PCW	22-Jan-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	League City Paving Company, Inc.
Reg. Ent. Ref. No.	RN101784726
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34759	No. of Violations	2
Docket No.	2007-1630-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Colin Barth
Multi-Media	Municipal Solid Waste	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	\$7,000
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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	\$350
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Notes: Upwards adjustment due to one NOV for same or similar violations at this site within 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.

	0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$971	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$31,500		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,350
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$7,350
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,350
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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	\$7,350
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Screening Date 9-Oct-2007

Docket No. 2007-1630-MLM-E

PCW

Respondent League City Paving Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34759

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101784726

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Colin Barth

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	1	5%
	Other written NOV's	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 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) 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

Upwards adjustment due to one NOV for same or similar violations at this site within the past five years.

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

Screening Date 9-Oct-2007	Docket No. 2007-1630-MLM-E	PCW		
Respondent League City Paving Company, Inc.		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 34759		<small>PCW Revision September 19, 2007</small>		
Reg. Ent. Reference No. RN101784726				
Media [Statute] Industrial and Hazardous Waste				
Enf. Coordinator Colin Barth				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 335.4(1) and Texas Water Code. 26.121(a)			
Violation Description	Failed to prevent the discharge of industrial waste into or adjacent to waters in the state, as documented during an investigation conducted on May 21, 2007. Specifically, a black tar like substance originating from approximately 35 containers of unknown waste was observed to have discharged onto the ground and into three ponds located at the site. Soil sample analytical results indicate the following hazardous wastes were found in the soil above the Texas Risk Reduction Program soil action levels: benzene (1.0 mg/g), 2-hexanone (6.11 mg/kg), methylene chloride (0.1 mg/kg), lead (22.3 mg/kg), and mercury (0.12 mg/kg).			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.			
	Adjustment	<input type="text" value="\$7,500"/>		
		<input type="text" value="\$2,500"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="142"/>	Number of violation days
	<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$5,000"/>
		monthly	<input type="text"/>	
		quarterly	<input checked="" type="text" value="x"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
	single event	<input type="text"/>		
	Two quarterly events are recommended from the investigation date of May 21, 2007 to the screening date of October 9, 2007.			
Economic Benefit (EB) for this violation			Statutory Limit Test	
	Estimated EB Amount	<input type="text" value="\$139"/>	Violation Final Penalty Total	<input type="text" value="\$5,250"/>
	This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$5,250"/>

Economic Benefit Worksheet

Respondent: League City Paving Company, Inc.
Case ID No.: 34759
Reg. Ent. Reference No.: RN101784726
Media: Industrial and Hazardous 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	\$3,000	21-May-2007	1-Jan-2008	0.6	\$92	n/a	\$92
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	21-May-2007	1-Jan-2008	0.6	\$46	n/a	\$46

Notes for DELAYED costs

Estimated cost to ensure no industrial waste discharges into or adjacent to waters in the state and to remove and properly dispose of soil contaminated with the discharge of industrial waste. The Date Required is the investigation date and the Final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,500

TOTAL

\$139

Screening Date 9-Oct-2007	Docket No. 2007-1630-MLM-E	PCW		
Respondent League City Paving Company, Inc.	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 34759	<i>PCW Revision September 19, 2007</i>			
Reg. Ent. Reference No. RN101784726				
Media [Statute] Industrial and Hazardous Waste				
Enf. Coordinator Colin Barth				
Violation Number <input type="text" value="2"/>				
Rule Cite(s)	30 Tex. Admin Code § 330.15(c)			
Violation Description	Failed to prevent the unauthorized disposal of municipal solid waste, as documented during an investigation conducted on May 21, 2007. Specifically, approximately 1,000 cubic yards of municipal solid waste which include: dilapidated vehicles and equipment, trailers, scrap tires, and piles of garbage which included, a mattress, a refrigerator, a sofa, wood waste, and miscellaneous debris, were located at the site.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="10%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.			
Adjustment		<input type="text" value="\$9,000"/>		
		<input type="text" value="\$1,000"/>		
Violation Events				
Number of Violation Events		<input type="text" value="2"/>	Number of violation days	
		<input type="text" value="142"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="text" value="x"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
<input type="text" value="\$2,000"/>				
Two quarterly events are recommended from the investigation date of May 21, 2007 to the screening date of October 9, 2007.				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$832"/>	Violation Final Penalty Total	
			<input type="text" value="\$2,100"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$2,100"/>	

Economic Benefit Worksheet

Respondent: League City Paving Company, Inc.
Case ID No.: 34759
Reg. Ent. Reference No.: RN101784726
Media: Industrial and Hazardous 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
<i>No commas or \$</i>							

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	\$27,000	21-May-2007	1-Jan-2008	0.6	\$832	n/a	\$832
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of approximately 1,000 cubic yards of municipal solid waste consisting of: dilapidated vehicles and equipment, trailers, scrap tires, and piles of garbage which included, a mattress, a refrigerator, a sofa, wood waste, and miscellaneous debris at \$27 dollars a cubic yard. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$27,000

TOTAL

\$832

Compliance History

Customer/Respondent/Owner-Operator:	CN600965974	League City Paving Company, Inc.	Classification: AVERAGE	Rating: 3.00
Regulated Entity:	RN101784726	LEAGUE CITY PAVING	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	PETROLEUM STORAGE TANK	REGISTRATION	55018	
	REGISTRATION			
	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER	455120121	
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	T2201	
Location:	2514 ANDERS LN, KEMAH, TX, 77565		Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	October 09, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 09, 2002 to October 09, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	N/A		Phone:	512 239 0086

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 07/17/2007 (560088)
- E. Written notices of violations (NOV). (CEEDS Inv. Track. No.)
- | | | | |
|--------------|---|----------|--------------------------|
| Date: | 05/05/2006 | (457953) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121[G]
30 TAC Chapter 335, SubChapter A 335.4[G] | | |
| Description: | Several spills of unknown material were noted on the ground, and soil samples were collected on 03/03/2006. Sample analytical results showed the presence of the following five chemicals of concern at concentrations above the Texas Risk Reduction Program soil action levels: benzene (1.0 mg/kg), 2-hexanone (6.11 mg/kg), methylene chloride (0.1 mg/kg), lead (22.3 mg/kg), and mercury (0.12 mg/kg). Additionally, soil samples indicated the presence of Total Petroleum Hydrocarbons. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 330, SubChapter A 330.15(c) | | |
| Description: | Unauthorized disposal of municipal solid waste. | | |
- 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
LEAGUE CITY PAVING
COMPANY, INC.,
RN101784726

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BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1630-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding League City Paving Company, Inc. ("League City Paving") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and League City Paving, represented by John S. Powell of the Powell Law Firm, appear before the Commission and together stipulate that:

1. League City Paving owns and operates an asphalt paving company located at 2514 Anders Lane, Kemah, Galveston County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and League City Paving agree that the Commission has jurisdiction to enter this Agreed Order, and that League City Paving is subject to the Commission's jurisdiction.
4. League City Paving received notice of the violations alleged in Section II ("Allegations") on or about July 22, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by League City Paving of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of seven thousand three hundred fifty dollars (\$7,350.00) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). League City Paving has paid three hundred fifty dollars (\$350.00) of the administrative penalty. The remaining amount of seven thousand dollars (\$7,000.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred dollars (\$200.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If League City Paving fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of League City Paving to meet the payment schedule of this Agreed Order constitutes the failure by League City Paving to timely and satisfactorily comply with all of the terms of this Agreed Order.

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

II. ALLEGATIONS

League City Paving is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 335.4(1) and TEXAS WATER CODE § 26.121(a) by failing to prevent the discharge of industrial waste into or adjacent to waters in the state, as documented on May 21, 2007. Specifically, a black tar like substance originating from approximately 35 containers of unknown waste was observed to have discharged onto the ground and into three ponds located at the site. Soil sample analytical results indicate the following hazardous wastes were found in the soil above the Texas Risk Reduction Program soil action levels:

benzene (1.0 mg/g), 2-hexanone (6.11 mg/kg), methylene chloride (0.1 mg/kg), lead (22.3 mg/kg), and mercury (0.12 mg/kg).

2. 30 TEX. ADMIN CODE § 330.15(c), by failing to prevent the unauthorized disposal of municipal solid waste, as documented on May 21, 2007. Specifically, approximately 1,000 cubic yards of municipal solid waste were located at the Site, including: dilapidated vehicles and equipment, trailers, scrap tires, and piles of garbage which included, a mattress, a refrigerator, a sofa, wood waste, and miscellaneous debris.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that League City Paving pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and League City Paving'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: League City Paving Company, Inc., Docket No. 2007-1630-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. League City Paving shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease accepting or disposing of any additional municipal solid waste at the Site.
 - b. Immediately upon the effective date of this Agreed Order, cease discharging any additional waste onto to the ground or into or adjacent to any waters in the state, in accordance with 30 TEX. ADMIN. CODE § 335.4 and TEXAS WATER CODE § 26.121(a)(1);

- c. Within 30 days after the effective date of this Agreed Order, remove and properly dispose of all the waste at the Site, in accordance with 30 TEX. ADMIN CODE § 330.15(c);
- d. Within 45 days after the effective date of this Agreed Order, submit an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F. The APAR shall be submitted to:

Remediation Division, MC 225
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- e. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.d.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

7. This 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to League City Paving, or three days after the date on which the Commission mails notice of the Order to League City Paving, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

March 4, 2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 League City Paving Company, Inc.'s failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by League City Paving Company, Inc.;
- 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 against League City Paving Company, Inc.;
- Automatic referral to the Attorney General's Office of any future enforcement actions against League City Paving Company, Inc.; and
- TCEQ seeking other relief as authorized by law.

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

[Signature]
Signature

1-21-09
Date

HR Phillips
Name (Printed or typed)

VP
Title

Authorized representative of
League City Paving Company, Inc.