

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-0009-MSW-E **TCEQ ID:** RN105516959 **CASE NO.:** 36973  
**RESPONDENT NAME:** Alfred Sapp

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 2952 County Road 204, near Centerville, Leon County</p> <p><b>TYPE OF OPERATION:</b> Unauthorized disposal site</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on April 16, 2008, alleging that the Respondent failed to obtain authorization from the TCEQ prior to disposal of municipal solid waste ("MSW"). There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 11, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  TCEQ Attorney/SEP Coordinator: None  TCEQ Enforcement Coordinator: Mr. Ross Fife, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2541; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  Respondent: Mr. Alfred L. Sapp, Owner, 14119 South Evers Avenue, Compton, California 90222  Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> April 16, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> November 17, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 21, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review investigation.</p> <p><b>WASTE</b></p> <p>Failure to prevent the unauthorized disposal of MSW. Specifically, the Respondent allowed approximately 500 scrap tires (approximately 50 cubic yards) to be disposed of at the Site [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p><b>Total Assessed:</b> \$2,625</p> <p><b>Total Deferred:</b> \$525  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,100</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease disposing of any additional waste at the Site;</p> <p>b. Within 30 days after the effective date of this Agreed Order, remove all MSW and dispose of the wastes at an authorized facility; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a and b.</p>

Additional ID No(s): N/A



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	24-Nov-2008	Screening	5-Jan-2009	EPA Due	
	PCW	9-Jan-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Alfred Sapp
Reg. Ent. Ref. No.	RN105516959
Facility/Site Region	9-Waco
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36973	No. of Violations	1
Docket No.	2009-0009-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ross Fife
		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

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

Compliance History  Subtotals 2, 3, & 7

Notes

Culpability   Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit  Subtotal 6

Total EB Amounts    
 Approx. Cost of Compliance    
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

Screening Date 5-Jan-2009

Docket No. 2009-0009-MSW-E

PCW

Respondent Alfred Sapp

Policy Revision 2 (September 2002)

Case ID No. 36973

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105516959

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 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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 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

Enhancement for one NOV with same or similar violation.

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

<p><b>Screening Date</b> 5-Jan-2009</p> <p><b>Respondent</b> Alfred Sapp</p> <p><b>Case ID No.</b> 36973</p> <p><b>Reg. Ent. Reference No.</b> RN105516959</p> <p><b>Media [Statute]</b> Municipal Solid Waste</p> <p><b>Enf. Coordinator</b> Ross Fife</p> <p><b>Violation Number</b> <input type="text" value="1"/></p> <p><b>Rule Cite(s)</b> <input style="width:100%;" type="text" value="30 Tex. Admin. Code § 330.15(c)"/></p> <p><b>Violation Description</b> <input style="width:100%; height: 50px;" type="text" value="Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, the Respondent allowed approximately 500 scrap tires (approximately 50 cubic yards) to be disposed of at the site."/></p>	<p><b>Docket No.</b> 2009-0009-MSW-E</p> <p style="text-align: right;"><b>PCW</b> <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small></p>																					
<b>Base Penalty</b> <input style="width:100%;" type="text" value="\$10,000"/>																						
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																						
<p>OR</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> <td></td> </tr> <tr> <td style="text-align: center;"><b>Release</b></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> </table> <p style="text-align: right;"><b>Percent</b> <input style="width:100%;" type="text" value="25%"/></p>		<b>Harm</b>				<b>Release</b>	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	x		Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>			
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	Major	Moderate	Minor																			
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>																			
<b>Adjustment</b> <input style="width:100%;" type="text" value="\$7,500"/>																						
<input style="width:100%;" type="text" value="\$2,500"/>																						
<b>Violation Events</b>																						
<p><b>Number of Violation Events</b> <input style="width:100%;" type="text" value="1"/> <input style="width:100%;" type="text" value="49"/> <b>Number of violation days</b></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20%;"></td> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td style="text-align: center;">weekly</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;"><i>mark only one with an x</i></td> <td style="text-align: center;">quarterly</td> <td style="text-align: center;">x</td> </tr> <tr> <td></td> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td style="text-align: center;">annual</td> <td><input type="text"/></td> </tr> <tr> <td></td> <td style="text-align: center;">single event</td> <td><input type="text"/></td> </tr> </table> <p style="text-align: right;"><b>Violation Base Penalty</b> <input style="width:100%;" type="text" value="\$2,500"/></p> <p><input style="width:100%; height: 20px;" type="text" value="One quarterly event is recommended based on the November 17, 2008 record review date to the January 5, 2009 screening date."/></p>		daily	<input type="text"/>		weekly	<input type="text"/>		monthly	<input type="text"/>	<i>mark only one with an x</i>	quarterly	x		semiannual	<input type="text"/>		annual	<input type="text"/>		single event	<input type="text"/>	
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Notes	<input style="width:100%; height: 20px;" type="text" value="The Respondent does not meet the good faith criteria for this violation."/>																					
<b>Economic Benefit (EB) for this violation</b>																						
<p><b>Estimated EB Amount</b> <input style="width:100%;" type="text" value="\$54"/></p>	<p><b>Statutory Limit Test</b></p> <p><b>Violation Final Penalty Total</b> <input style="width:100%;" type="text" value="\$2,625"/></p> <p><b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width:100%;" type="text" value="\$2,625"/></p>																					

## Economic Benefit Worksheet

**Respondent** Alfred Sapp  
**Case ID No.** 36973  
**Reg. Ent. Reference No.** RN105516959  
**Media** Municipal Solid Waste  
**Violation No.** 1

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

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$978	24-Apr-2008	31-May-2009	1.10	\$54	n/a	\$54
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove the municipal solid waste and dispose of at an approved municipal solid waste disposal site. The Date Required is the initial investigation date 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				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$978

TOTAL

\$54

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603356494 SAPP, ALFRED LARUE Classification: AVERAGE Rating: 1.50  
 Regulated Entity: RN105516959 2952 CR 204 Classification: AVERAGE Site Rating: 1.50  
 ID Number(s):  
 Location: 2952 CR 204, CENTERVILLE, TX, 75833  
 TCEQ Region: REGION 09 - WACO  
 Date Compliance History Prepared: January 12, 2009  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: January 12, 2004 to January 12, 2009  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Ross Fife Phone: 512-239-2541

## 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
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
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. (CCEDS Inv. Track. No.)
 

1	05/21/2008	(671597)
2	09/22/2008	(703011)
3	11/21/2008	(707059)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date: 05/23/2008 (671597)		
Self Report?	NO	Classification: Minor
Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)		
Description: Failure to prevent the unauthorized discharge of municipal solid waste into or adjacent to the waters of the state.		
- 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  
ALFRED SAPP  
RN105516959

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0009-MSW-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Alfred Sapp ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns an unauthorized disposal site at 2952 County Road 204 near Centerville, Leon County, Texas (the "Site").
2. The Facility involves the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 26, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Six Hundred Twenty-Five Dollars (\$2,625) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand One Hundred Dollars (\$2,100) of the administrative penalty and Five Hundred Twenty-Five Dollars (\$525) is deferred contingent upon

- the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
  8. The Executive Director of the TCEQ and the Respondent 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 the Respondent 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

As owner of the Site, the Respondent is alleged to have failed to prevent the unauthorized disposal of municipal solid waste, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during a record review conducted on November 17, 2008. Specifically, the Respondent allowed approximately 500 scrap tires (approximately 50 cubic yards) to be disposed of at the Site.

## III. DENIALS

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

## IV. ORDERING PROVISIONS

1. ~~It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Alfred Sapp, Docket No. 2009-0009-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. It is further ordered that the Respondent shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Agreed Order, cease disposing of any additional waste at the Site;
  - b. Within 30 days after the effective date of this Agreed Order, remove all municipal solid waste and dispose of the wastes at an authorized facility; and
  - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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."

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  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Szellin  
\_\_\_\_\_  
For the Executive Director

4/17/2009  
\_\_\_\_\_  
Date

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

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

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

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

Alfred L. Sapp  
\_\_\_\_\_  
Signature

4-8-09  
\_\_\_\_\_  
Date

Alfred L. Sapp  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Alfred Sapp

OWNER  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

