

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1563-MSW-E **TCEQ ID:** RN102211844 **CASE NO.:** 36597

RESPONDENT NAME: City of Fredericksburg

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 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: City of Fredericksburg Landfill, 204 Landfill Lane, Fredericksburg, Gillespie County</p> <p>TYPE OF OPERATION: Landfill</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Michael Graham, Enforcement Division, Enforcement Team 7, MC R-02, (806) 796-7635; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Jeryl Hoover, Mayor, City of Fredericksburg, 126 West Main Street, Fredericksburg, Texas 78624 Mr. Gary Neffendorf, City Manager, City of Fredericksburg, 126 West Main Street, Fredericksburg, Texas 78624 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: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 19, 2008</p> <p>Date of NOV/NOE Relating to this Case: September 9, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WASTE</p> <p>Failure to provide an acceptable financial assurance annual inflation update [30 TEX. ADMIN. CODE §§ 37.131 and 37.271(5)].</p>	<p>Total Assessed: \$1,070</p> <p>Total Deferred: \$214 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$856</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has filed acceptable financial assurance annual inflation update documents with the TCEQ on September 29, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, develop and implement procedures to ensure the financial assurance annual inflation update documents are filed with the TCEQ on or before the annual March 31 deadline; and</p> <p>b. 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 Provision a.</p>

Additional ID No(s): 708582



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

DATES	Assigned	15-Sep-2008	Screening	26-Sep-2008	EPA Due	
	PCW	22-Oct-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Fredericksburg
Reg. Ent. Ref. No.	RN102211844
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36597	No. of Violations	1
Docket No.	2008-1563-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Michael Graham
		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	\$1,000
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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	7.0% Enhancement	Subtotals 2, 3, & 7	\$70
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Notes	There was one NOV for the same or similar violation and one NOV for a non-related violation.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$7	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,070
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$1,070
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,070
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DEFERRAL	20.0% Reduction	Adjustment	-\$214
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$856
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Screening Date 26-Sep-2008

Docket No. 2008-1563-MSW-E

PCW

Respondent City of Fredericksburg

Policy Revision 2 (September 2002)

Case ID No. 36597

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102211844

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Graham

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	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	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) 7%

>> 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

There was one NOV for the same or similar violation and one NOV for a non-related violation.

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

<p>Screening Date 26-Sep-2008</p> <p>Respondent City of Fredericksburg</p> <p>Case ID No. 36597</p> <p>Reg. Ent. Reference No. RN102211844</p> <p>Media [Statute] Municipal Solid Waste</p> <p>Enf. Coordinator Michael Graham</p> <p>Violation Number <input type="text" value="1"/></p> <p>Rule Cite(s) <input style="width:100%;" type="text" value="30 Tex. Admin. Code §§ 37.131 and 37.271(5)"/></p> <p>Violation Description <input style="width:100%;" type="text" value="Failed to provide acceptable financial assurance annual inflation update."/></p>	<p>Docket No. 2008-1563-MSW-E</p> <p style="text-align: right;">PCW</p> <p style="text-align: right;"><small>Policy Revision 2 (September 2002)</small></p> <p style="text-align: right;"><small>PCW Revision June 12, 2008</small></p>																			
Base Penalty <input style="width:100%;" type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
<p>OR</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></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>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input style="width:50px;" type="text" value="0%"/></td> </tr> <tr> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Harm					Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width:50px;" type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Harm																			
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>> Programmatic Matrix																				
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Falsification	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width:50px;" type="text" value="10%"/>																
Adjustment <input style="width:100%;" type="text" value="\$9,000"/>																				
<input style="width:100%;" type="text" value="\$1,000"/>																				
Violation Events																				
<p>Number of Violation Events <input style="width:50px;" type="text" value="1"/> <input style="width:50px;" type="text" value="179"/> Number of violation days</p> <p>mark only one with an x</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td><input type="text"/></td> </tr> </table> <p style="text-align: center; border: 1px solid black; padding: 5px; margin-top: 10px;">One annual event is recommended.</p>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input checked="" type="checkbox"/>	single event	<input type="text"/>	<p>Violation Base Penalty <input style="width:100%;" type="text" value="\$1,000"/></p>							
daily	<input type="text"/>																			
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	Before NOV	NOV to EDPRP/Settlement Offer																		
Extraordinary	<input type="text"/>	<input type="text"/>																		
Ordinary	<input type="text"/>	<input type="text"/>																		
N/A	<input checked="" type="checkbox"/>	(mark with x)																		
Violation Subtotal <input style="width:100%;" type="text" value="\$1,000"/>																				
Economic Benefit (EB) for this violation Statutory Limit Test																				
<p>Estimated EB Amount <input style="width:100%;" type="text" value="\$7"/></p>	<p>Violation Final Penalty Total <input style="width:100%;" type="text" value="\$1,070"/></p>																			
This violation Final Assessed Penalty (adjusted for limits) <input style="width:100%;" type="text" value="\$1,070"/>																				

Economic Benefit Worksheet

Respondent City of Fredericksburg
Case ID No. 36597
Reg. Ent. Reference No. RN102211844
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				0.00	\$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	\$100	19-May-2008	30-Oct-2009	1.45	\$7	n/a	\$7
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to develop and implement procedures to ensure the financial assurance annual inflation update documents are filed with the TCEQ on or before the annual March 31 deadline. The date required is the date the update was due 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				0.00	\$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	\$100	TOTAL	\$7
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Comp HistoryPending_newSubsA2F

Customer/Respondent/Owner-Operator: CN600527238 City of Fredericksburg Classification: AVERAGE Rating: 1.98
 Regulated Entity: RN102211844 CITY OF FREDERICKSBURG Classification: AVERAGE Site Rating: 1.20
 LANDFILL

ID Number(s): MUNICIPAL SOLID WASTE DISPOSAL PERMIT 1995
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER GD0001S
 AIR NEW SOURCE PERMITS AFS NUM 4817100004
 TIRES REGISTRATION 5932
 AIR OPERATING PERMITS PERMIT 2822

Location: 204 LANDFILL LN, FREDERICKSBURG, TX, 78624 Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: September 30, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 30, 2003 to September 30, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Michael Graham Phone: 806-796-7635

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. (CCEDS Inv. Track. No.)

1	09/14/2006	(481535)
2	12/04/2006	(532111)
3	08/07/2007	(571374)
4	08/08/2008	(682724)
5	09/09/2008	(702429)

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

Date: 11/29/2006 (532111)

Self NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter J 330.254(a)(1)

Description: Considerable subsidence was noted at the time of the on-site investigation.

Date: 08/05/2008 (699679)

Self NO Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter B 37.131

30 TAC Chapter 37, SubChapter C 37.271(5)

Description: Failure to provide acceptable financial assurance inflation update

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF FREDERICKSBURG
RN102211844

§
§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1563-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 the City of Fredericksburg ("the City") 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 City appear before the Commission and together stipulate that:

1. The City owns and operates a landfill at 204 Landfill Lane, in Fredericksburg, Gillespie County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about September 14, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Seventy Dollars (\$1,070) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Eight Hundred Fifty-Six Dollars (\$856) of the administrative penalty and Two Hundred Fourteen Dollars (\$214) is deferred contingent upon the City's timely and satisfactory compliance

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

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has filed acceptable financial assurance annual inflation update documents with the TCEQ on September 29, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to provide an acceptable financial assurance annual inflation update, in violation of 30 TEX. ADMIN. CODE §§ 37.131 and 37.271(5), as documented during a record review conducted on May 19, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Fredericksburg, Docket No. 2008-1563-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 City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, develop and implement procedures to ensure the financial assurance annual inflation update documents are filed with the TCEQ on or before the annual March 31 deadline; and
 - b. 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 No. 2.a.

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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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

4. If the City 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 City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City 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 City shall be made in writing to the Executive Director. Extensions are not effective until the City 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 City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement 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), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Erdlin
For the Executive Director

5/20/2009
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.

Mary Hendrick
Gary Hendrick

Name (Printed or typed)
Authorized Representative of
City of Fredericksburg

5/14/09
City Manager

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.

