

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0097-MSW-E TCEQ ID: RN103670071 CASE NO.: 28310

RESPONDENT NAME: DANNY WILDE

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 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: 9978 Robby Jones Road, San Angelo, Tom Green County</p> <p>TYPE OF OPERATION: Composting facility</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 \$437.32 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 December 1, 2008. 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. John Shelton, Waste Enforcement Section, MC 128, (512) 239-2563 TCEQ Regional Contact: Mr. Mark Newman, San Angelo Regional Office, MC R-8, (325) 655-9479 Respondent: Mr. Danny Wilde, 9978 Robby Jones Road, San Angelo, Texas 76904 Respondent's Attorney: Mr. Greg Gossett, Gossett, Harrison, Reese, Millican & Stipanovic, P.C., Post Office Drawer 911, San Angelo, Texas 76902</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: None</p> <p>Date of Investigation Relating to this Case: December 7, 2007</p> <p>Date of NOE Relating to this Case: December 19, 2007</p> <p>Background Facts: The EDRP was filed February 12, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the Agreed Order was signed on October 3, 2008.</p> <p>Current Compliance Status: As of October 21, 2008, the Respondent ceased accepting new material at the Facility, and began processing and removing the accumulated material.</p> <p>MSW: Failed to obtain sufficient financial assurance for the closure of a compost facility [30 TEX. ADMIN. CODE §§ 37.921 and 382.5(d); and Agreed Order No. 2006-0180-MSW-E, Ordering Provision No. 2.c].</p>	<p>Total Assessed: \$5,025</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 Paid/Due to General Revenue: \$300/\$4,725</p> <p>The Respondent has paid \$300 of the administrative penalty. The remaining amount of \$4,725 of the administrative penalty shall be payable in 35 monthly payments of \$135 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>Findings Order Justification: Indifference to legal duty by failing to comply with a previous Commission agreed order.</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease accepting and processing any municipal solid waste at this Facility until properly authorized. 2. Within 30 days, submit documentation that demonstrates acceptable financial assurance for the closure of the Facility. 3. Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	2-Jan-2008	Screening	11-Jan-2008	EPA Due	
	PCW	10-Sep-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Danny Wilde
Reg. Ent. Ref. No.	RN103670071
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	28310	No. of Violations	1	
Docket No.	2008-0097-MSW-E	Order Type	Findings	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	John Shelton	
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) **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 Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for one NOV with the same or similar violations, one NOV with dissimilar violations, and one agreed order at this site within the past five years.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Reduction **Subtotal 5**

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 **Subtotal 6**
 Approx. Cost of Compliance ***Capped at the Total EB \$ Amount**

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

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended adjustment to capture the avoided cost associated with the violations.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 11-Jan-2008

Docket No. 2008-0097-MSW-E

PCW

Respondent Danny Wilde

Policy Revision 2 (September 2002)

Case ID No. 28310

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN103670071

Media [Statute] Municipal Solid Waste

Enf. Coordinator John Shelton

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)	1	20%
	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) 27%

>> 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 the same or similar violations, one NOV with dissimilar violations, and one agreed order at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 11-Jan-2008	Docket No. 2008-0097-MSW-E	PCW
Respondent Danny Wilde		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 28310		<i>PCW Revision November 6, 2007</i>
Reg. Ent. Reference No. RN103670071		
Media [Statute] Municipal Solid Waste		
Enf. Coordinator John Shelton		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	30 Tex. Admin. Code §§ 37.921 and 328.5(d) and Administrative Order, Docket No. 2006-0180-MSW-E, Ordering Provision No. 2.c.	
Violation Description	Failed to complete the ordering provisions of an effective Agreed Order, as documented during an investigation on December 7, 2007. Specifically, the Respondent failed to obtain sufficient financial assurance for the closure of a compost facility as required by the Agreed Order.	
	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 type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification				
		Major	Moderate		Minor
	<input type="text"/>	<input type="text"/>	x		<input type="text"/>
				Percent <input type="text" value="5%"/>	
Matrix Notes	70% of the rule requirement was not met.				
				Adjustment <input type="text" value="\$9,500"/>	

Violation Events

Number of Violation Events	<input type="text" value="6"/>		<input type="text" value="562"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$3,000"/>
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		

Six quarterly events are recommended from the July 14, 2006 effective date of the Agreed Order to the January 11, 2008 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$2,552"/>	Violation Final Penalty Total <input type="text" value="\$5,025"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,025"/>	

Economic Benefit Worksheet

Respondent Danny Wilde

Case ID No. 28310

Reg. Ent. Reference No. RN103670071

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				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				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]	\$1,215	14-Jul-2006	7-Dec-2007	2.0	\$122	\$2,430	\$2,552
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to establish and maintain additional financial assurance for the waste at the facility. The Date Required is the effective date of the Agreed Order and the Final Date is the investigation date which documented continuing non-compliance.

Approx. Cost of Compliance

\$1,215

TOTAL

\$2,552

Compliance History

Customer/Respondent/Owner-Operator:	CN602188328 Danny Wilde	Classification: AVERAGE	Rating: 25.25
Regulated Entity:	RN103670071 D WILDE COMPOST	Classification: AVERAGE	Site Rating: 25.25
ID Number(s):	WATER QUALITY NON PERMITTED	ID NUMBER	080100106
	MUNICIPAL SOLID WASTE NON	ID NUMBER	100145
	PERMITTED		
Location:	9978 ROBBY JONES RD, SAN ANGELO, TX, 76904	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 08 - SAN ANGELO		
Date Compliance History Prepared:	January 11, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 11, 2003 to January 11, 2008		

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

Name: Marlin Bullard Phone: (254) 761-3038

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|---|----------------------------|
| Effective Date: 07/14/2006 | ADMINORDER 2006-0180-MSW-E |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 328, SubChapter A 328.5(b) | |
| Description: Failure to complete and submit the Notice of Intent to Operate a Recycling Facility forms as required. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 328, SubChapter A 328.5(d) | |
| 30 TAC Chapter 37, SubChapter J 37.921 | |
| Description: Failure to establish and maintain Financial Assurance as required. | |
- 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 | 01/31/2006 | (453493) |
| 2 | 06/13/2006 | (482539) |
| 3 | 03/01/2007 | (541027) |
| 4 | 12/19/2007 | (611488) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|---|----------|--------------------------|
| Date: 06/14/2006 | (482539) | |
| Self Report? | NO | Classification: Moderate |
| Citation: 30 TAC Chapter 111, SubChapter B 111.201 | | |
| Description: Failure to comply with the general prohibition regarding outdoor burning | | |
| Date: 02/20/2007 | (541027) | |
| Self Report? | NO | Classification: Moderate |
| Citation: 30 TAC Chapter 328, SubChapter A 328.5(d) | | |
| 30 TAC Chapter 37, SubChapter J 37.921 | | |
| Description: Failure to establish and maintain Financial Assurance as required. | | |
| Self Report? | NO | Classification: Major |
| Citation: 2A TWC Chapter 7, SubChapter A 7.101 | | |
| Rqmt Prov: ORDER OPs 2.c. & 2.d. | | |

Description: Failure to comply with the Ordering Provisions of Commission Order Docket No. 2006-0180-MSW-E.

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
DANNY WILDE,
RN103670071

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0097-MSW-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Danny Wilde ("Mr. Wilde") 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 Mr. Wilde represented by Greg Gossett of the law firm of Gossett, Harrison, Reese, Millican & Stipanovic, P.C., presented this agreement to the Commission.

Mr. Wilde understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Mr. Wilde agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Mr. Wilde.

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

FINDINGS OF FACT

1. Mr. Wilde owns and operates composting facility located at 9978 Robby Jones Road, near San Angelo, Tom Green County, Texas (the "Facility").
2. The Facility involves the management or the disposal of municipal solid waste as defined

in TEX. HEALTH & SAFETY CODE ch. 361.

3. During an inspection on December 7, 2007, a TCEQ San Angelo Regional Office investigator documented that Mr. Wilde failed to obtain sufficient financial assurance for the closure of the Facility.
4. Mr. Wilde received notice of the violation on December 24, 2007.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Wilde is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Wilde has failed to obtain sufficient financial assurance for the closure of a compost facility, in violation of 30 TEX. ADMIN. CODE §§ 37.921 and 328.5(d); and Agreed Order No. 2006-0180-MSW-E, Ordering Provision no. 2.c
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Wilde 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.
4. An administrative penalty in the amount of five thousand twenty five dollars (\$5,025.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Wilde is assessed an administrative penalty in the amount of five thousand twenty-five dollars (\$5,025.00) as set forth in Conclusion of Law No. 4 for violations of TCEQ rules and Texas statutes. Mr. Wilde has paid three hundred dollars (\$300.00) of the administrative penalty. The remaining amount of four thousand seven hundred twenty-five dollars (\$4,725.00) of the administrative penalty shall be payable in 35 monthly payments of one

hundred thirty-five dollars (\$135.00) 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 Mr. Wilde 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 Mr. Wilde to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Wilde to timely and satisfactorily comply with all of the terms of this Agreed Order. The payment of this administrative penalty and Mr. Wilde's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that 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: Danny Wilde; Docket No. 2008-0097-MSW-E; Enforcement ID No. 28310" 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. Wilde shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Mr. Wilde shall cease accepting and processing any municipal solid waste at this Facility until properly authorized.
 - b. Within 30 days after the effective date of this Agreed Order, Mr. Wilde shall submit documentation that demonstrates acceptable financial assurance for the closure of the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 37.921 and 328.5(d), and Administrative Order, Docket No. 2006-0180-MSW-E, Ordering Provision No. 2.c. to:

Financial Assurance Team, MC 184
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 45 days after the effective date of this Agreed Order, Mr. Wilde shall 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 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 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

and

Mark Newman, Waste Section Manager
Texas Commission on Environmental Quality
San Angelo Regional Office
622 S. Oakes, Suite K
San Angelo, Texas 76903-7035

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

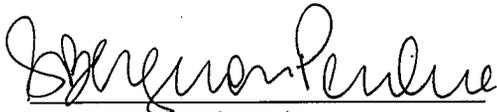
or other catastrophe, Mr. Wilde's failure to comply is not a violation of this Agreed Order. Mr. Wilde has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Wilde shall notify the Executive Director within seven days after Mr. Wilde becomes aware 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 Mr. Wilde shall be made in writing to the Executive Director. Extensions are not effective until Mr. Wilde receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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. Wilde if the Executive Director determines that Mr. Wilde has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Wilde 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to Mr. Wilde, or three days after the date on which the Commission mails notice of the Order to Mr. Wilde, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

11/3/08

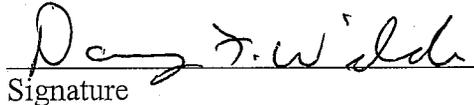
Date

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 my 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 me;
- 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 me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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


Signature

10-3-08
Date

Danny Wilde
Name (Printed or typed)
Authorized representative of
Danny Wilde

Title