

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1187-MSW-E TCEQ ID: RN105517247 AND RN105372718 CASE NO.: 36276

RESPONDENT NAME: THE J.W. GRIMES FAMILY LIMITED PARTNERSHIP

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

SITES WHERE VIOLATIONS OCCURRED: 3146 Sherwood Avenue, Lancaster, Dallas County; 10045 Farm-to-Market Road 66, Maypearl, Ellis County

TYPE OF OPERATION: Unauthorized municipal solid waste disposal sites

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired June 29, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Michael Graham, Waste Enforcement Section, MC R-2, (806) 796-7635

TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903

Respondent: Ms. Grace Grimes, General Partner, The J.W. Grimes Family Limited Partnership, P.O. Box 465, Maypearl, Texas 76064; Mr. J.W. Grimes, General Partner, The J.W. Grimes Family Limited Partnership, 3150 Sherwood Avenue, Lancaster, Texas 75134-1528

Respondent's Attorney: Not represented by counsel on this enforcement matter.

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>Dates of Investigation Relating to this Case: April 26, 2008 (the Maypearl Site) April 24, 2008 (the Lancaster Site)</p> <p>Date of NOE Relating to this Case: July 9, 2008</p> <p>Background Facts: The EDPRP was filed April 7, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent is not yet in compliance.</p> <p>MSW:</p> <ol style="list-style-type: none"> Failed to prevent the disposal of municipal solid waste at an authorized site (the "Maypearl Site") [30 TEX. ADMIN. CODE § 330.15(c)]. Failed to prevent the disposal of municipal solid waste at an authorized site (the "Lancaster Site") [30 TEX. ADMIN. CODE § 330.15(c)]. 	<p>Initial Calculated Penalty: \$15,000</p> <p>Total Assessed: \$15,000</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 Due to General Revenue: \$15,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Maypearl Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Lancaster Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input 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 at both Sites:</p> <ol style="list-style-type: none"> Immediately, cease accepting and/or disposing any additional waste at the Sites. Within 30 days, remove all waste from the Sites and dispose of it at an authorized facility. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	14-Jul-2008	Screening	22-Jul-2008	EPA Due	
	PCW	9-Jun-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	The J.W. Grimes Family Limited Partnership
Reg. Ent. Ref. No.	RN105372718
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36276	No. of Violations	1
Docket No.	2008-1187-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 Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$1,201	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$26,895	

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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

PCW-1
(Lancaster)

Screening Date 22-Jul-2008

Docket No. 2008-1187-MSW-E

PCW

Respondent The J.W. Grimes Family Limited Partnership

Policy Revision 2 (September 2002)

Case ID No. 36276

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105372718

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)	0	0%
	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 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) 0%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes

Reduction for high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 22-Jul-2008 **Docket No.** 2008-1187-MSW-E **PCW**

Respondent The J.W. Grimes Family Limited Partnership *Policy Revision 2 (September 2002)*

Case ID No. 36276. *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN105372718

Media [Statute] Municipal Solid Waste

Enf. Coordinator Ross Fife

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

OR

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input checked="" type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	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="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent The J.W. Grimes Family Limited Partnership
Case ID No. 36276
Reg. Ent. Reference No. RN105372718
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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	\$26,895	24-Apr-2008	16-Mar-2009	0.89	\$1,201	n/a	\$1,201
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to dispose 3000 cubic yards of municipal solid waste in an authorized landfill. 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				0.00	\$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

\$26,895

TOTAL

\$1,201

Compliance History

Customer/Respondent/Owner-Operator: CN603393240 The J.W. Grimes Family Limited Partnership Classification: HIGH Rating: 0.00
Regulated Entity: RN105372718 CASEY GRIMES DBA ADVANTAGE COMPOST Classification: HIGH Site Rating: 0.00

ID Number(s):

Location: 3146 SHERWOOD AVE, LANCASTER, TX, 75134

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: August 05, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 22, 2003 to July 22, 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? Yes
3. If Yes, who is the current owner? The J.W. Grimes Family Limited Partnership
4. If Yes, who was/were the prior owner(s)? J.W. Grimes III (2003 - 2005)
5. When did the change(s) in ownership occur? 2005

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 12/04/2007 (609116)
N/A
2 07/08/2008 (657347)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 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

Compliance History #1



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	14-Jul-2008	Screening	22-Jul-2008	EPA Due	
	PCW	8-Jun-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	The J.W. Grimes Family Limited Partnership
Reg. Ent. Ref. No.	RN105517247
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36276	No. of Violations	1
Docket No.	2008-1187-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 -10.0% Enhancement *Subtotals 2, 3, & 7*

Notes The Respondent has not received any previous NOV's or Orders at this site in the previous five years.

Culpability No *Subtotal 4*

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5*

Economic Benefit 0.0% Enhancement* *Subtotal 6*

Total EB Amounts	\$1,162
Approx. Cost of Compliance	\$26,182

*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 Enhancement to capture high performer classification reduction for the default order.

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 Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

PCW-2
(may pearl)



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	14-Jul-2008	Screening	22-Jul-2008	EPA Due	
	PCW	8-Jun-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	The J.W. Grimes Family Limited Partnership
Reg. Ent. Ref. No.	RN105517247
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36276	No. of Violations	1
Docket No.	2008-1187-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**

-10.0% Enhancement

Notes

Culpability **Subtotal 4**

0.0% Enhancement

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **Subtotal 6**

0.0% Enhancement*

Total EB Amounts	\$1,162
Approx. Cost of Compliance	\$26,182

*Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

11.1%

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

Reduction

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

Notes

PAYABLE PENALTY

Screening Date 22-Jul-2008

Docket No. 2008-1187-MSW-E

PCW

Respondent The J.W. Grimes Family Limited Partnership

Policy Revision 2 (September 2002)

Case ID No. 36276

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105517247

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 NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	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 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) 0%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes

The Respondent has not received any previous NOV's or Orders at this site in the previous five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 22-Jul-2008	Docket No. 2008-1187-MSW-E	PCW													
Respondent The J.W. Grimes Family Limited Partnership	<i>Policy Revision 2 (September 2002)</i>														
Case ID No. 36276	<i>PCW Revision June 12, 2008</i>														
Reg. Ent. Reference No. RN105517247															
Media [Statute] Municipal Solid Waste															
Enf. Coordinator Ross Fife															
Violation Number <input type="text" value="1"/>															
Rule Cite(s)	30 Tex. Admin. Code § 330.15(c)														
Violation Description	Failed to prevent the disposal of municipal solid waste at an unauthorized disposal site, as documented during an investigation conducted on April 26, 2008. Specifically, approximately 3000 cubic yards of waste was disposed at the unauthorized site including wood, brush, and other organic waste.														
Base Penalty		<input type="text" value="\$10,000"/>													
>> Environmental, Property and Human Health Matrix															
OR	Release	Harm													
		Major Moderate Minor													
	Actual	<input type="text" value="x"/>													
	Potential	<input type="text"/>	Percent <input type="text" value="25%"/>												
>> Programmatic Matrix															
	Falsification	Major Moderate Minor													
	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>												
Matrix Notes	Human health or the environment has been exposed to pollutants which would exceed levels that are protective of human health or environmental receptor as a result of the violation.														
Adjustment		<input type="text" value="\$7,500"/>													
			<input type="text" value="\$2,500"/>												
Violation Events															
	Number of Violation Events <input type="text" value="3"/>	<input type="text" value="87"/> Number of violation days													
<i>mark only one with an x</i>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input checked="" type="text" value="x"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input checked="" type="text" value="x"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty	<input type="text" value="\$7,500"/>
daily	<input type="text"/>														
monthly	<input checked="" type="text" value="x"/>														
quarterly	<input type="text"/>														
semiannual	<input type="text"/>														
annual	<input type="text"/>														
single event	<input type="text"/>														
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> Three monthly events are recommended from the April 26, 2008 investigation date to the July 22, 2008 screening date. </div>															
Good Faith Efforts to Comply		0.0% Reduction	<input type="text" value="\$0"/>												
		Before NOV NOV to EDPRP/Settlement Offer													
	Extraordinary	<input type="text"/>													
	Ordinary	<input type="text"/>													
	N/A	<input checked="" type="text" value="x"/> (mark with x)													
Notes	The Respondent does not meet the good faith criteria for this violation.														
Violation Subtotal		<input type="text" value="\$7,500"/>													
Economic Benefit (EB) for this violation		Statutory Limit Test													
	Estimated EB Amount <input type="text" value="\$1,162"/>	Violation Final Penalty Total	<input type="text" value="\$7,500"/>												
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$7,500"/>													

Economic Benefit Worksheet

Respondent: The J.W. Grimes Family Limited Partnership
Case ID No.: 36276
Reg. Ent. Reference No.: RN105517247
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$26,182	26-Apr-2008	16-Mar-2009	0.89	\$1,162	n/a	\$1,162
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to dispose 3000 cubic yards of municipal solid waste in an authorized landfill. 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				0.00	\$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

\$26,182

TOTAL

\$1,162

Compliance History

Customer/Respondent/Owner-Operator: CN603393240 The J.W. Grimes Family Limited Partnership Classification: HIGH Rating: 0.00
Regulated Entity: RN105517247 CASEY GRIMES PROPERTY Classification: HIGH Site Rating: 0.00
ID Number(s):
Location: 10045 FM 66, MAYPEARL, TX, 76064
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: August 05, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 22, 2003 to July 22, 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? Yes
3. If Yes, who is the current owner? The J.W. Grimes Family Limited Partnership
4. If Yes, who was/were the prior owner(s)? Grimes, J.W. Jr. & Grace
5. When did the change(s) in ownership occur? 7/18/2005

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 07/08/2008 (671535)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 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

Compliance History #2

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
THE J.W. GRIMES FAMILY
LIMITED PARTNERSHIP;
RN105517247 AND RN105372718

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2008-1187-MSW-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is The J.W. Grimes Family Limited Partnership ("Grimes Family Partnership").

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

FINDINGS OF FACT

1. The Grimes Family Partnership owns and operates a two unauthorized municipal solid waste disposal sites (collectively, the "Sites"). The first Site is located at 3146 Sherwood Avenue, Lancaster, Dallas County, Texas (RN105372718; the "Lancaster Site"). The second Site is located at 10045 Farm-to-Market Road 66, Maypearl, Ellis County, Texas (RN105517247; the "Maypearl Site").
2. The Sites involve the management and the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on April 26, 2008, a TCEQ DFW Regional Office investigator documented that the Grimes Family failed to prevent the disposal of municipal solid waste at an unauthorized disposal site. Specifically, approximately 3,000 cubic yards of waste was disposed of at the Maypearl Site, including wood, brush, and other organic waste.

4. During an investigation conducted on April 24, 2008, a TCEQ DFW Regional Office investigator documented that the Grimes Family Partnership failed to prevent the disposal of municipal solid waste at an unauthorized disposal site. Specifically, approximately 3,000 cubic yards of waste was disposed of at Lancaster Site, including wood, brush, and other organic waste.
5. The Grimes Family Partnership received notice of the violations in paragraphs 3 and 4 on or about July 14, 2008.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of The J.W. Grimes Family Limited Partnership" (the "EDPRP") in the TCEQ Chief Clerk's office on April 7, 2009.
7. By letter dated April 7, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served The Grimes Family Partnership with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that The Grimes Family Partnership received notice of the EDPRP.
8. More than 20 days have elapsed since The Grimes Family Partnership received notice of the EDPRP, provided by the Executive Director. The Grimes Family Partnership failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, The Grimes Family Partnership is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, The Grimes Family Partnership failed to prevent the disposal of municipal solid waste at an unauthorized site (the Maypearl Site), in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. As evidenced by Finding of Fact No. 3, The Grimes Family Partnership failed to prevent the disposal of municipal solid waste at an unauthorized site (the Lancaster Site), in violation of 30 TEX. ADMIN. CODE § 330.15(c).

4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served the Grimes Family Partnership with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 8, the Grimes Family Limited Partnership failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against the Grimes Family Limited Partnership and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Grimes Family Limited Partnership 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.
7. An administrative penalty in the amount of fifteen thousand dollars (\$15,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. The Grimes Family Partnership is assessed an administrative penalty in the amount of fifteen thousand dollars (\$15,000.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and The Grimes Family Partnership's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: The J.W. Grimes Family Limited Partnership; Docket No. 2008-1187-MSW" 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. The Grimes Family Partnership shall undertake the following technical requirements at both the Lancaster Site and the Maypearl Site (the Sites):
 - a. Immediately upon the effective date of this Order, The Grimes Family Partnership shall cease accepting and/or disposing any additional waste at the Sites.
 - b. Within 30 days after the effective date of this Order, The Grimes Family Partnership shall remove all waste from the Sites and dispose of it at an authorized facility.
 - c. Within 45 days after the effective date of this Order, The Grimes Family Partnership shall submit written certification and 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 Grimes Family Partnership shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

Sam Barrett, Dallas/Fort Worth Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Dr.
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon the Grimes Family Partnership. The Grimes Family Partnership is ordered to give notice of this Order to personnel who maintain day-to-day control over the Sites' operations referenced in this Order.
5. If the Grimes Family Partnership fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Grimes Family Partnership's failure to comply is not a violation of this Order. The Grimes Family Partnership shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Grimes Family Partnership shall notify the Executive Director within seven days after the Grimes Family Partnership becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Grimes Family Partnership shall be made in writing to the Executive Director. Extensions are not effective until the Grimes Family Partnership receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Grimes Family Partnership if the Executive Director determines that the Grimes Family Partnership has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

The J.W. Grimes Family Limited Partnership
Default Order
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF KARI L. GILBRETH

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Kari L. Gilbreth. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of the J.W: Grimes Family Limited Partnership” (the “EDPRP”) was filed with the Office of the Chief Clerk on April 7, 2009.

I sent the EDPRP to the Grimes Family Partnership at its last known address on April 7, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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



Kari L. Gilbreth
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Kari L. Gilbreth, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 12th day of May, A.D., 2009.



Notary Signature

Notary Stamp

