

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0614-MLM-E TCEQ ID: RN105232722 CASE NO.: 35722**  
**RESPONDENT NAME: KENNETH CAMPBELL**

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

<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input checked="" 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

**SITE WHERE VIOLATION(S) OCCURRED:** Intersection of Loop 500 and State Highway 87, near Center, Shelby County

**TYPE OF OPERATION:** Municipal solid waste disposal site

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** One complaint was received, alleging unauthorized outdoor burning. 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 July 13, 2009. No comments were received.

**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:** Ms. John Shelton, Waste Enforcement Section, MC 128, (512) 239-2563

**TCEQ Regional Contact:** Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 898-3838

**Respondent:** Mr. Kenneth Campbell, P.O. Box 1588, Center, Texas 75935

**Respondent's Attorney:** Mr. John R. Smith, 117 San Augustine Street, P.O. Box 2020, Center, Texas 75935

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>                      December 19, 2007</p> <p><b>Date of Investigation Relating to this Case:</b>                      January 30, 2008</p> <p><b>Date of NOE Relating to this Case:</b>                      March 26, 2008</p> <p><b>Background Facts:</b>                      The EDP RP was filed May 29, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the Respondent signed the Agreed Order on May 13, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent has taken measures to prevent disposal of additional waste at the Site, and has consolidated the existing waste at the Site to facilitate removal. The Respondent has also identified an authorized facility which can accept the waste, and anticipates that all waste will be removed from the Site by the deadline specified in the Agreed Order.</p> <p><b>MLM:</b></p> <ol style="list-style-type: none"> <li>Failed to comply with the prohibition on outdoor burning [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to properly dispose of municipal solid waste at an authorized facility [30 TEX. ADMIN. CODE § 330.15].</li> </ol>	<p><b>Total Assessed:</b> \$2,378</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b>                      \$178/\$2,200</p> <p>The Respondent paid \$178 of the administrative penalty. The remaining amount of \$2,200 shall be payable in 22 monthly payments of \$100 each.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provision(s):</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately:                         <ol style="list-style-type: none"> <li>Cease unauthorized burning of waste at the Site; and</li> <li>Cease disposing of any additional waste at the Site.</li> </ol> </li> <li>Within 30 days, ensure that all unauthorized waste at the Site, including burned material, is removed and properly disposed of at an authorized facility.</li> <li>Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

DATES	Assigned	31-Mar-2008	Screening	14-Apr-2008	EPA Due	
	PCW	14-Apr-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Kenneth Campbell
Reg. Ent. Ref. No.	RN105232722
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	35722	No. of Violations	2	
Docket No.	2008-0614-MLM-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Cynthia McKaughan	
Multi-Media	Air	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**  Reduction **Subtotal 5**

Before NOV      NOV to EDRP/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)

Notes

**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**

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** **\$2,378**

**Screening Date** 14-Apr-2008

**Docket No.** 2008-0614-MLM-E

**PCW**

**Respondent** Kenneth Campbell

Policy Revision 2 (September 2002)

**Case ID No.** 35722

PCW Revision February 29, 2008

**Reg. Ent. Reference No.** RN105232722

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Cynthia McKaughan

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

The Respondent had one NOV for same or similar violations, during the previous five years.

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

**Screening Date** 14-Apr-2008 **Docket No.** 2008-0614-MLM-E **PCW**  
**Respondent** Kenneth Campbell *Policy Revision 2 (September 2002)*  
**Case ID No.** 35722 *PCW Revision February 29, 2008*  
**Reg. Ent. Reference No.** RN105232722  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Cynthia McKaughan

**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 type="text"/>	<input checked="" type="text" value="X"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> 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

*mark only one with an x*  
 daily   
 monthly   
 quarterly   
 semiannual   
 annual   
 single event

**Violation Base Penalty**

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** Kenneth Campbell  
**Case ID No.** 35722  
**Reg. Ent. Reference No.** RN105232722  
**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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$278	30-Jan-2008	30-Jan-2008	0.0	\$0	\$278	\$278
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to properly dispose of 10 cubic yards of MSW at \$27.80 per cubic yard and to ensure that unauthorized burning does not occur at the site. Date Required and Final Date is the investigation date.

Approx. Cost of Compliance \$278

TOTAL \$278

Screening Date 14-Apr-2008

Docket No. 2008-0614-MLM-E

PCW

Respondent Kenneth Campbell

Policy Revision 2 (September 2002)

Case ID No. 35722

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN105232722

Media [Statute] Municipal Solid Waste

Enf. Coordinator Cynthia McKaughan

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 type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> 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

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

Violation Base Penalty

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** Kenneth Campbell  
**Case ID No.** 35722  
**Reg. Ent. Reference No.** RN105232722  
**Media** Municipal Solid Waste  
**Violation No.** 2

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>No commas or \$</i>							
<b>Delayed Costs</b>							
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	\$5,560	30-Jan-2008	1-Nov-2008	0.8	\$210	n/a	\$210
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost for removing approximately 200 cubic yards of MSW at \$27.80 per cubic yard. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance TOTAL

\$5,560	\$210
---------	-------

## Compliance History

Customer/Respondent/Owner-Operator:	CN601030984    CAMPBELL, KENNETH	Classification: AVERAGE	Rating: 3.50
Regulated Entity:	RN105232722    LOOP 500 AND SH 87	Classification: AVERAGE	Site Rating: 4.00
ID Number(s):			
Location:	1217 LOUISIANA ST, CENTER, TX, 75935	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	April 02, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 02, 2003 to April 02, 2008		

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

Name: Cynthia Mckaughan Phone: (512) 239-0735

### 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.  
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 03/26/2008 (616858)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	06/25/2007 (554166)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 111, SubChapter B 111.201		
Description:	Outdoor burning of municipal solid waste		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 330, SubChapter A 330.1(a)		
	30 TAC Chapter 330, SubChapter A 330.15		
Description:	Unauthorized disposal of municipal solid waste.		
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
KENNETH CAMPBELL,  
RN105232722

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-0614-MLM-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Kenneth Campbell ("Mr. Campbell") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Campbell, represented by John R. Smith of the Law Offices of John R. Smith, P.C., appear before the Commission and together stipulate that:

1. Mr. Campbell owns property where municipal solid waste has been disposed located at the intersection of Loop 500 and State Highway 87, near Center, in Shelby County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382, and TCEQ rules.
3. The Commission and Mr. Campbell agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Campbell is subject to the Commission's jurisdiction.
4. Mr. Campbell received notice of the violations alleged in Section II ("Allegations") on or about March 31, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Campbell of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of two thousand three hundred seventy-eight dollars (\$2,378.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Campbell paid one hundred seventy-eight dollars (\$178.00) of the administrative penalty. The remaining amount of two thousand two hundred dollars (\$2,200.00) of the administrative penalty shall be payable in 22 monthly payments of one hundred dollars (\$100.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Campbell 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, Mr. Campbell's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Campbell to timely and satisfactorily comply with all of the terms of this Agreed Order
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Campbell agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Campbell has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

During an investigation conducted on January 30, 2008, a TCEQ Beaumont Regional Office investigator documented that Mr. Campbell violated:

- a. 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to comply with the prohibition on outdoor burning. Specifically,

approximately ten cubic yards of municipal solid waste was observed burning. The waste included sheetrock, roofing shingles, appliances and other construction debris.

- b. 30 TEX. ADMIN. CODE § 330.15 by failing to properly dispose of municipal solid waste at an authorized facility. Specifically, approximately 200 cubic yards of municipal solid waste was disposed of at the Site.

### III. DENIALS

Mr. Campbell generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Campbell pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Campbell's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Kenneth Campbell, Docket No. 2008-0614-MLM-E to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Campbell shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order:
    - i. Cease unauthorized burning of waste at the Site;
    - ii. Cease disposing of any additional waste at the Site;
  - b. Within 30 days after the effective date of this Agreed Order, ensure that all unauthorized waste at the Site, including burned material, is removed and properly disposed of at an authorized facility;

- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.

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

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Campbell. Mr. Campbell is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the site operations referenced in this Agreed Order.
4. If Mr. Campbell 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. Campbell's failure to comply is not a violation of this Agreed Order. Mr. Campbell shall have the burden of establishing to the Executive Director's

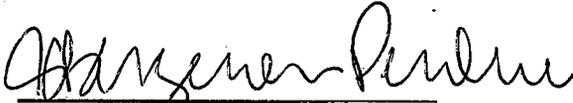
satisfaction that such an event has occurred. Mr. Campbell shall notify the Executive Director within seven days after Mr. Campbell becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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. Campbell shall be made in writing to the Executive Director. Extensions are not effective until Mr. Campbell 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 Mr. Campbell in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Campbell, or three days after the date on which the Commission mails notice of the Order to Mr. Campbell, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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



\_\_\_\_\_  
For the Executive Director

6/17/2009

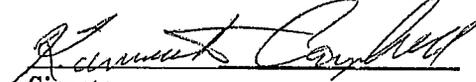
\_\_\_\_\_  
Date

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

I also understand that 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 Mr. Campbell's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Campbell;
- 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 Mr. Campbell;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Campbell; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

5-13-09  
\_\_\_\_\_  
Date

KENNETH CAMPBELL  
\_\_\_\_\_  
Name (Printed or typed)

RESPONDENT/DEFENDANT  
\_\_\_\_\_  
Title