

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2007-1075-MLM-E TCEQ ID RN104801121 CASE NO. 33880
RESPONDENT NAME: THREE LAKES LAND CO., L.L.C.

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

CASE TYPE:		
<input 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: North side of Business 83, at the northwest corner or the intersection of Business 83 and Baker Potts Road, Harlingen, Cameron County

TYPE OF OPERATION: Unauthorized municipal solid waste disposal site

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There were two complaints alleging the operation of an illegal dump site along Baker Potts Road and a recycling business on Business 83 and Baker Potts Road causing a dust nuisance to the nearby residences. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: The complainants have not expressed a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired November 9, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Clinton Sims, Air Enforcement Section, MC 169, (512) 239-6933

TCEQ Regional Contact: Mr. Jaime Garza, Harlingen Regional Office, MC R-15, (956) 430-6030

Respondent: Mr. Allan Crockett, President, Three Lakes Land Co., L.L.C., 1201 East Van Buren, Brownsville, Texas 78520

Respondent's Attorney: Mr. Horacio Barrera, Attorney, Martinez, Barrera, y Martinez, L.L.P., 1201 East Van Buren, Brownsville, Texas 78520

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: December 7, 2005; January 17, 2006</p> <p>Dates of Investigation Relating to this Case: May 17, 2007; July 1 through July 3, 2007</p> <p>Date of NOE Relating to this Case: July 16, 2007</p> <p>Background Facts: The case was referred to the Litigation Division on November 30, 2007. The EDPRP was filed on January 24, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on September 1, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>MLM:</p> <p>1. Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c)].</p> <p>2. Failed to comply with the general prohibition on outdoor burning [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201].</p>	<p>Total Assessed: \$40,250</p> <p>Total Deferred: \$36,650 <input type="checkbox"/> Expedited Order <input checked="" type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$100/\$3,500</p> <p>The Respondent paid \$100 of the administrative penalty. The remaining amount of \$3,500 shall be payable in 35 monthly payments of \$100 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>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Immediately: a. Cease disposing of any additional waste at the Site; and b. Cease all unauthorized burning of wastes.</p> <p>2. Within 60 days, remove all waste materials on the Site and dispose of the wastes at a permitted municipal solid waste disposal facility.</p> <p>3. Within 75 days, submit written certification demonstrating compliance with these Ordering Provisions.</p>



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	29-May-2007	Screening	14-Jun-2007	EPA Due	
	PCW	1-Nov-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Three Lakes Land Co., L.L.C.		
Reg. Ent. Ref. No.	RN104801121		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33880	No. of Violations	2	
Docket No.	2007-1075-MLM-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Marlin Bullard	
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 \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 20% Enhancement Subtotals 2, 3, & 7 \$1,000

Notes: The Respondent has one agreed order at this site within the past five years.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

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.

50% Enhancement* Subtotal 6 \$2,500
Total EB Amounts \$54,233
Approx. Cost of Compliance \$99,255
**Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 Final Subtotal \$8,500

OTHER FACTORS AS JUSTICE MAY REQUIRE 612% Adjustment \$52,000

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: Recommended adjustment to capture the avoided cost benefit associated with the disposal of the municipal solid waste.

Final Penalty Amount \$60,500

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$40,250

DEFERRAL 0% Reduction Adjustment \$0

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 \$40,250

Screening Date 14-Jun-2007

Docket No. 2007-1075-MLM-E

PCW

Respondent Three Lakes Land Co., L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 33880

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104801121

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

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

Adjustment Percentage (Subtotal 2) 20%

>> 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

The Respondent has one agreed order at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 14-Jun-2007

Docket No. 2007-1075-MLM-E

PCW

Respondent Three Lakes Land Co., L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 33880

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104801121

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to prevent the unauthorized disposal of municipal solid waste, as documented during an investigation conducted on May 17, 2007. Specifically, approximately 7,635 cubic yards of municipal solid waste including brush and shredded wood waste, were disposed of at the property without authorization.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

28 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One monthly event is recommended from the May 17, 2007 investigation date to the June 14, 2007 screening date

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,233

Violation Final Penalty Total \$30,250

This violation Final Assessed Penalty (adjusted for limits) \$30,250

Economic Benefit Worksheet

Respondent Three Lakes Land Co., L.L.C.
Case ID No. 33880
Reg. Ent. Reference No. RN104801121
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** **mutants which do not e**
No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	mutants which do not e
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	\$47,255	17-May-2007	26-Apr-2008	0.9	\$2,233	n/a	\$2,233
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of approximately 3,635 cubic yards of waste at a permitted municipal solid waste landfill at \$13 per cubic yard. The Date Required is the date of the investigation 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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	mutants which do not e
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

\$47,255

TOTAL

\$2,233

Screening Date 14-Jun-2007

Docket No. 2007-1075-MLM-E

PCW

Respondent Three Lakes Land Co., L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 33880

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104801121

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 111.201 and Tex. Health and Safety Code § 382.085(b)

Violation Description

Failed to comply with the general prohibition on outdoor burning, as documented during an investigation conducted on July 1, 2007. Specifically, the Respondent failed to prevent approximately 4,000 cubic yards of waste including brush and shredded wood waste from igniting and burning at the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

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

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$52,000

Violation Final Penalty Total \$30,250

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent: Three Lakes Land Co., L.L.C.

Case ID No.: 33880

Reg. Ent. Reference No.: RN104801121

Media: Municipal Solid Waste
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$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]	\$52,000	1-Jul-2007	1-Jul-2007	0.0	\$0	\$52,000	\$52,000
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to dispose of approximately 4,000 cubic yards of waste at a permitted municipal solid waste landfill at \$13 per cubic yard. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Approx. Cost of Compliance

\$52,000

TOTAL

\$52,000

Compliance History

Customer/Respondent/Owner-Operator:	CN602953606 Three Lakes Land Co., L.L.C.	Classification: AVERAGE	Rating: 45.00
Regulated Entity:	RN104801121 THREE LAKES RECYCLE CENTER	Classification: AVERAGE	Site Rating: 45.00
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER		455150134
Location:	ON N SIDE OF BUS 83 @ NW CORNER OF INTX OF BUS 83 & BAKER POTTS RD IN HARLINGEN, CAMERON COUNTY, TX.		Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	July 19, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 19, 2002 to July 19, 2007		

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? | Yes |
| 3. If Yes, who is the current owner? | <u>Three Lakes Land Co., L.L.C.</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>David Ankeney</u> |
| 5. When did the change(s) in ownership occur? | <u>February 21, 2005</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: 08/28/2006 ADMINORDER 2006-0151-MSW-E
 Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter A 330.5(a)[G]
 Description: Failure to prevent the disposal of municipal solid waste at an unauthorized disposal site.
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 05/25/2007 | (561025) |
| 2 | 07/16/2007 | (567188) |
- 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
THREE LAKES LAND CO., L.L.C.
RN104801121

§
§
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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1075-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 Three Lakes Land Co., L.L.C. ("Three Lakes") 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 Three Lakes, represented by Mr. Horacio Barrera of the law firm Martinez, Barrera, y Martinez, L.L.P., appear before the Commission and together stipulate that:

1. Three Lakes owns and operates an unauthorized municipal solid waste disposal site located on the north side of Business 83, at the northwest corner or the intersection of Business 83 and Baker Potts Road in Harlingen, Cameron 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 Three Lakes agree that the Commission has jurisdiction to enter this Agreed Order, and that Three Lakes is subject to the Commission's jurisdiction.
4. Three Lakes received notice of the violations alleged in Section II ("Allegations") on or about July 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Three Lakes of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of forty thousand two hundred fifty dollars (\$40,250.00) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Three Lakes and determined that Three Lakes is unable to pay part of the administrative penalty. Therefore, thirty-six thousand six hundred fifty dollars (\$36,650.00) of the penalty is deferred contingent upon Three Lakes's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Three Lakes fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Three Lakes to pay all or part of the deferred penalty.

Three Lakes paid one hundred dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) shall be payable in 35 monthly payments of one hundred dollars (\$100.00) each. The first 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 Three Lakes fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, 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 acceleration of any remaining balance constitutes the failure by Three Lakes to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

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 Three Lakes agree 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 Three Lakes 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

1. During an investigation conducted on May 17, 2007, a TCEQ Harlingen Regional Office investigator documented that Three Lakes violated 30 TEX. ADMIN. CODE § 330.15(c), by failing to prevent the unauthorized disposal of municipal solid waste. Specifically, approximately 7,635 cubic yards of municipal solid waste, including brush and shredded wood waste, were disposed of at the Site without authorization.
2. During an investigation conducted July 1st through July 3rd, 2007, a TCEQ Harlingen Regional Office investigator documented that Three Lakes violated TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201, by failing to comply with the general prohibition on outdoor burning. Specifically, Three Lakes failed to prevent approximately 4,000 cubic yards of waste, including brush and shredded wood waste, from igniting and burning at the Site.
3. Three Lakes received notice of the violations on or about July 21, 2007.

III. DENIALS

Three Lakes generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Three Lakes pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Three Lakes'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: Three Lakes Land Co., L.L.C., Docket No. 2007-1075-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. Three Lakes shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Three Lakes shall:

- i. Cease disposing of any additional waste at the Site, and
 - ii. Cease all unauthorized burning of wastes.
- b. Within 60 days after the effective date of this Agreed Order, Three Lakes shall remove all waste materials on the Site and dispose of the wastes at a permitted municipal solid waste disposal facility.
- c. Within 75 days after the effective date of this Agreed Order, Three Lakes shall submit written certification and detailed supporting documentation, including photographs, receipts, and 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.”

Three Lakes shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. to:

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

and

Jaime Garza, Waste Section Manager
Texas Commission on Environmental Quality
Harlingen Regional Office
1804 West Jefferson Avenue
Harlingen, Texas 75880-5247

3. The provisions of this Agreed Order shall apply to and be binding upon Three Lakes. Three Lakes is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Three Lakes 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, Three Lakes's failure to comply is not a violation of this Agreed Order. Three Lakes shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Three Lakes shall notify the Executive Director within seven days after Three Lakes 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 Three Lakes shall be made in writing to the Executive Director. Extensions are not effective until Three Lakes 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 Three Lakes 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.

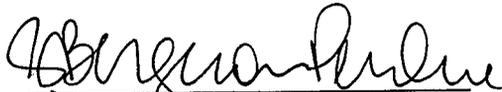
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

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 this Agreed Order to Three Lakes, or three days after the date on which the Commission mails notice of this Agreed Order to Three Lakes, 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

12/14/09

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 Three Lakes's failure to timely pay the penalty amount, may result in:

- A negative impact on Three Lakes's compliance history;
- Greater scrutiny of any permit applications submitted by Three Lakes;
- 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 Three Lakes;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Three Lakes; and
- TCEQ seeking other relief as authorized by law.

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



Signature

9-1-09

Date

ALLAN CROCKETT

Name (Printed or typed)

MANAGER/President

Title

Authorized representative of
Three Lakes Land Co., L.L.C.