

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0163-MLM-E **TCEQ ID:** RN104795265 **CASE NO.:** 37098
RESPONDENT NAME: Roy Smalley dba Buck Sanitation

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 AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Buck Sanitation, 5767 Farm Road 910, Clarksville, Red River County</p> <p>TYPE OF OPERATION: Rural garbage collection service</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on September 30, 2008, alleging that the Respondent was burning and disposing of municipal solid waste in an unauthorized manner. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Ross Fife, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2541; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Roy Hugh Smalley, Owner, Buck Sanitation, 5767 Farm Road 910, Clarksville, Texas 75426 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: September 30, 2008</p> <p>Date of Investigation Relating to this Case: September 30, 2008</p> <p>Date of NOV/NOE Relating to this Case: December 10, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>AIR</p> <p>1) Failure to comply with the general prohibition on outdoor burning and to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 388 cubic yards of MSW were disposed of at the Site, of which approximately 230 cubic yards of the MSW were burned [30 TEX. ADMIN. CODE §§ 111.201 and 330.15(c) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>WASTE</p> <p>2) Failure to maintain records for three years to document and ensure waste was disposed of at an authorized MSW facility. Specifically, the Respondent was not documenting where the collected MSW had been disposed [30 TEX. ADMIN. CODE § 330.103(b) and (c)].</p> <p>3) Failure to register the Site as a MSW Transfer Station. Specifically, the Site is operating as a MSW Transfer Station without the TCEQ registration [30 TEX. ADMIN. CODE § 330.9(a)].</p> <p>4) Failure to maintain collection vehicles in a manner to prevent the loss of MSW during transportation. Specifically, the Respondent used transport vehicles that were not constructed and maintained to prevent loss of liquid or solid waste materials [30 TEX. ADMIN. CODE § 330.105(a)].</p>	<p>Total Assessed: \$7,850</p> <p>Total Deferred: \$4,250 <input checked="" type="checkbox"/> Expedited Settlement (\$1,570) <input checked="" type="checkbox"/> Financial Inability to Pay (\$2,680)</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$100 (remaining \$3,500 due in 35 monthly payments of \$100 each)</p> <p>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty.</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 Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease all unauthorized waste transfer, burning and disposal at the Site.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Remove all municipal solid waste from the Site and dispose of the waste at an authorized facility;</p> <p>ii. Develop and implement procedures to ensure that all solid waste collected is unloaded only at authorized facilities;</p> <p>iii. Maintain proper records to document that all wastes collected are taken to an authorized facility; and</p> <p>iv. Properly maintain all municipal solid waste collection vehicles to prevent the loss of solid and liquid wastes during collection.</p> <p>c. Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a through b.iv.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	15-Dec-2008	Screening	22-Jan-2009	EPA Due	
	PCW	22-Jan-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Roy Smalley dba Buck Sanitation		
Reg. Ent. Ref. No.	RN104795265		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37098	No. of Violations	4
Docket No.	2009-0163-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Air	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	\$5,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$275
Notes	Enhancement due to one NOV for same or similar violation.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$4,882	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$79,120		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$5,775
OTHER FACTORS AS JUSTICE MAY REQUIRE	35.9%	Adjustment	\$2,075
<small>Reduces or enhances the Final Subtotal by the Indicated percentage.</small>			
Notes	Enhancement to capture the avoided cost of compliance associated with violation no. 1.		
		Final Penalty Amount	\$7,850
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$7,850
DEFERRAL	20.0% Reduction	Adjustment	-\$1,570
<small>Reduces the Final Assessed Penalty by the Indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$6,280

Screening Date 22-Jan-2009

Docket No. 2009-0163-MLM-E

PCW

Respondent Roy Smalley dba Buck Sanitation

Policy Revision 2 (September 2002)

Case ID No. 37098

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104795265

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)	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement due to one NOV for same or similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 22-Jan-2009	Docket No. 2009-0163-MLM-E	PCW	
Respondent Roy Smalley dba Buck Sanitation	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37098	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN104795265			
Media [Statute] Municipal Solid Waste			
Enf. Coordinator Ross Fife			
Violation Number 1			
Rule Cite(s)	30 Tex. Admin. Code §§ 111.201 and 330.15(c) and Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to comply with the general prohibition on outdoor burning and to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 388 cubic yards of MSW were disposed of at the Site, of which approximately 230 cubic yards of the MSW were burned.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual			X
Potential			
Percent		10%	
>> Programmatic Matrix			
Falsification			
Major	Moderate	Minor	
Percent		0%	
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
Adjustment		\$9,000	
Violation Events			
Number of Violation Events		2	122
		Number of violation days	
<small>mark only one with an x</small>	daily		
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		
Violation Base Penalty		\$2,000	
Two quarterly events are recommended from the September 30, 2008 investigation date to the January 22, 2009 screening date.			
Good Faith Efforts to Comply			
0.0% Reduction			
<small>Before NOV NOV to EDPRP/Settlement Offer</small>			
Extraordinary			
Ordinary			
N/A	X	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal		\$2,000	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	\$2,131	Violation Final Penalty Total	\$2,855
This violation Final Assessed Penalty (adjusted for limits)		\$2,855	

Economic Benefit Worksheet

Respondent Roy Smalley dba Buck Sanitation
Case ID No. 37098
Reg. Ent. Reference No. RN104795265
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
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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	\$1,545	30-Sep-2008	23-Jun-2009	0.73	\$56	n/a	\$56
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of the 168 cubic yards of waste located at the Facility. 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)

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]	\$2,075	30-Sep-2008	30-Sep-2008	0.00	\$0	\$2,075	\$2,075
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to properly dispose of approximately 230 cubic yards of waste that was disposed of by burning. The Date Required and the Final Date is the investigation date.

Approx. Cost of Compliance

\$3,620

TOTAL

\$2,131

Screening Date 22-Jan-2009	Docket No. 2009-0163-MLM-E	PCW	
Respondent Roy Smalley dba Buck Sanitation	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37098	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN104795265			
Media [Statute] Municipal Solid Waste			
Enf. Coordinator Ross Fife			
Violation Number <input type="text" value="2"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 330.103(b) and (c)"/>		
Violation Description	<input type="text" value="Failed to maintain records for three years to document and ensure waste was disposed of at an authorized MSW facility. Specifically, the Respondent was not documenting where the collected MSW had been disposed."/>		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
>> Programmatic Matrix			
Falsification			
Major			Moderate
Minor			
<input type="text"/>			<input checked="" type="text" value="x"/>
<input type="text"/>			<input type="text"/>
			Percent <input type="text" value="10%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>		
Adjustment		<input type="text" value="\$9,000"/>	
		<input type="text" value="\$1,000"/>	
Violation Events			
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="122"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="text" value="x"/>	
			Violation Base Penalty <input type="text" value="\$1,000"/>
<input type="text" value="One single event is recommended."/>			
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction	
		<input type="text" value="\$0"/>	
		<small>Before NOV NOV to EOPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>	<small>(mark with x)</small>
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
Violation Subtotal		<input type="text" value="\$1,000"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount <input type="text" value="\$4"/>		Violation Final Penalty Total <input type="text" value="\$1,427"/>	
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,427"/>			

Economic Benefit Worksheet

Respondent Roy Smalley dba Buck Sanitation
Case ID No. 37098
Reg. Ent. Reference No. RN104795265
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	30-Sep-2008	29-Jun-2009	0.73	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement accurate record keeping to document that all MSW is disposed of at an authorized facility. 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)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 22-Jan-2009	Docket No. 2009-0163-MLM-E	PCW		
Respondent Roy Smalley dba Buck Sanitation	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 37098	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN104795265				
Media [Statute] Municipal Solid Waste				
Enf. Coordinator Ross Fife				
Violation Number <input type="text" value="3"/>				
Rule Cite(s)	30 Tex. Admin. Code § 330.9(a)			
Violation Description	Failed to register the Site as a MSW Transfer Station. Specifically the Site is operating as a MSW Transfer Station without the TCEQ registration.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met			
Adjustment				<input type="text" value="\$9,000"/>
				<input type="text" value="\$1,000"/>
Violation Events				
	Number of Violation Events	<input type="text" value="2"/>	Number of violation days	<input type="text" value="122"/>
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="text" value="x"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
				Violation Base Penalty <input type="text" value="\$2,000"/>
Two quarterly events are recommended from the September 30, 2008 investigation date to the January 22, 2009 screening date.				
Good Faith Efforts to Comply				
		<input type="text" value="0.0%"/>	Reduction	<input type="text" value="\$0"/>
		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"/>	<input type="text"/>	<i>(mark with x)</i>	
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				<input type="text" value="\$2,000"/>
Economic Benefit (EB) for this violation				
Estimated EB Amount		<input type="text" value="\$2,733"/>	Statutory Limit Test	
Violation Final Penalty Total				<input type="text" value="\$2,855"/>
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$2,855"/>

Economic Benefit Worksheet

Respondent Roy Smalley dba Buck Sanitation
Case ID No. 37098
Reg. Ent. Reference No. RN104795265
Media Municipal Solid Waste
Violation No. 3

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				0.00	\$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				0.00	\$0	n/a	\$0
Permit Costs	\$75,000	30-Sep-2008	23-Jun-2009	0.73	\$2,733	n/a	\$2,733
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register as an MSW Transfer Station. 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)

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

\$75,000

TOTAL

\$2,733

Screening Date 22-Jan-2009	Docket No. 2009-0163-MLM-E	PCW														
Respondent Roy Smalley dba Buck Sanitation	<small>Policy Revision 2 (September 2002)</small>															
Case ID No. 37098	<small>PCW Revision October 30, 2008</small>															
Reg. Ent. Reference No. RN104795265																
Media [Statute] Municipal Solid Waste																
Enf. Coordinator Ross Fife																
Violation Number <input type="text" value="4"/>																
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 330.105(a)"/>															
Violation Description	<input type="text" value="Failed to maintain collection vehicles in a manner to prevent the loss of MSW during transportation. Specifically, the Respondent used transport vehicles that were not constructed and maintained to prevent loss of liquid or solid waste materials."/>															
Base Penalty		<input type="text" value="\$10,000"/>														
>> Environmental, Property and Human Health Matrix																
Harm																
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">Major</td> <td style="width:33%; text-align: center;">Moderate</td> <td style="width:33%; text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">X</td> </tr> </table>		Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	<input type="text"/>	X	Percent <input type="text" value="5%"/>		
	Major	Moderate	Minor													
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>													
Potential	<input type="text"/>	<input type="text"/>	X													
>>> Programmatic Matrix																
Falsification																
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">Major</td> <td style="width:33%; text-align: center;">Moderate</td> <td style="width:33%; text-align: center;">Minor</td> </tr> <tr> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Major	Moderate	Minor	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>						
	Major	Moderate	Minor													
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>													
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>															
Adjustment		<input type="text" value="\$9,500"/>														
		<input type="text" value="\$500"/>														
Violation Events																
Number of Violation Events	<input type="text" value="1"/>	Number of violation days														
	<input type="text" value="122"/>															
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">weekly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;">X</td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	X	Violation Base Penalty <input type="text" value="\$500"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	X															
<input type="text" value="One single event is recommended."/>																
Good Faith Efforts to Comply		<input type="text" value="\$0"/>														
0.0% Reduction																
<small>Before NOV NOV to EDRP/Settlement Offer</small>																
Extraordinary	<input type="text"/>															
Ordinary	<input type="text"/>															
N/A	X (mark with x)															
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>															
Violation Subtotal		<input type="text" value="\$600"/>														
Economic Benefit (EB) for this violation		Statutory Limit Test														
Estimated EB Amount	<input type="text" value="\$15"/>	Violation Final Penalty Total <input type="text" value="\$714"/>														
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$714"/>														

Economic Benefit Worksheet

Respondent Roy Smalley dba Buck Sanitation
Case ID No. 37098
Reg. Ent. Reference No. RN104795265
Media Municipal Solid Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$400	30-Sep-2008	23-Jun-2009	0.73	\$15	n/a	\$15

Notes for DELAYED costs

Estimated cost to maintain vehicles in appropriate manner, which will prevent loss of solid and liquid MSW during travel. 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)

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

\$400

TOTAL

\$15

Compliance History Report

Customer/Respondent/Owner-Operator: CN602944860 Roy Smalley Classification: AVERAGE Rating: 1.50
Regulated Entity: RN104795265 BUCK SANITATION Classification: AVERAGE Site Rating: 1.50
ID Number(s):
Location: 5767 FARM ROAD 910, CLARKSVILLE, TX, 75426
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: November 02, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: November 02, 2004 to November 02, 2009

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

Name: Ross Fife Phone: 512-239-2541

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

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 12/06/2005 (439173)

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

Date: 12/06/2005 (439173)

Self NO
Report?

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.5(c)

Description: Failure to obtain written authorization from the Commission before allowing the dumping 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

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ROY SMALLEY DBA BUCK
SANITATION
RN104795265

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0163-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Roy Smalley dba Buck Sanitation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a rural garbage collection service at 5767 Farm Road 910 in Clarksville, Red River County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12) and involves or involved the management of Municipal Solid Waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 15, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seven Thousand Eight Hundred Fifty Dollars (\$7,850) 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 financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Four Thousand Two Hundred Fifty Dollars (\$4,250) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid One Hundred Dollars (\$100) of the undeferred administrative penalty. The remaining amount of Three Thousand Five Hundred Dollars (\$3,500) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all 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 the Respondent have 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 the Respondent 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

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to comply with the general prohibition on outdoor burning and to prevent the unauthorized disposal of municipal solid waste, in violation of 30 TEX. ADMIN. CODE §§ 111.201 and

330.15(c) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 30, 2008. Specifically, approximately 388 cubic yards of MSW were disposed of at the Site, of which approximately 230 cubic yards of the MSW were burned.

2. Failed to maintain records for three years to document and ensure waste was disposed of at an authorized MSW facility, in violation of 30 TEX. ADMIN. CODE § 330.103(b) and (c), as documented during an investigation conducted on September 30, 2008. Specifically, the Respondent was not documenting where the collected MSW had been disposed.
3. Failed to register the Site as a MSW Transfer Station, in violation of 30 TEX. ADMIN. CODE § 330.9(a), as documented during an investigation conducted on September 30, 2008. Specifically, the Site is operating as a MSW Transfer Station without the TCEQ registration.
4. Failed to maintain collection vehicles in a manner to prevent the loss of MSW during transportation, in violation of 30 TEX. ADMIN. CODE § 330.105(a), as documented during an investigation conducted on September 30, 2008. Specifically, the Respondent used transport vehicles that were not constructed and maintained to prevent loss of liquid or solid waste materials.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Roy Smalley dba Buck Sanitation, Docket No. 2009-0163-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease all unauthorized waste transfer, burning and disposal at the Site.
 - b. Within 30 days after the effective date of this Agreed Order:

- i. Remove all municipal solid waste from the Site and dispose of the waste at an authorized facility;
 - ii. Develop and implement procedures to ensure that all solid waste collected is unloaded only at authorized facilities, in accordance with 30 TEX. ADMIN. CODE § 330.103;
 - iii. Maintain proper records to document that all wastes collected are taken to an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 330.103; and
 - iv. Properly maintain all municipal solid waste collection vehicles to prevent the loss of solid and liquid wastes during collection, in accordance with 30 TEX. ADMIN. CODE § 330.105.
- c. Within 60 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.iv. 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 fines 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or

other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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 under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

John S. Miller
For the Executive Director

12/8/2009
Date

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

Roy Hugh Smalley
Signature

10-13-09
Date

ROY HUGH SMALLEY
Name (Printed or typed)
Authorized Representative of
Roy Smalley dba Buck Sanitation

OWNER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.