

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 4
DOCKET NO.: 2009-2049-MSW-E **TCEQ ID:** RN102334570 **CASE NO.:** 35798
RESPONDENT NAME: City of Kingsville

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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: City of Kingsville Landfill, 348 East County Road 2130, Kingsville, Kleberg County</p> <p>TYPE OF OPERATION: Landfill</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 4, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Elvia Maske, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0789; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Sam R. Fugate, Mayor, City of Kingsville, P.O. Box 1265, Kingsville, Texas 78364 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 type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 2, 2009 – August 11, 2009</p> <p>Date of NOV/NOE Relating to this Case: September 11, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to maintain and operate the working face in a manner to control windblown solid waste [30 TEX. ADMIN. CODE § 330.139, MSW Permit 235B, Site Operating Plan ("SOP") Section 4.9 and TCEQ Agreed Order Docket No. 2008-0697-MSW-E, Ordering Provision No. 3.a.ii.].</p> <p>2) Failed to maintain at least 12 inches of suitable earthen material and to provide effective stability to top dome surfaces and external embankment side slopes during all phases of landfill operation [30 TEX. ADMIN. CODE §§ 330.165(c) and 330.305(d), MSW Permit 235B, Section 4.22, Site Development Plan ("SDP") Attachment 6, Groundwater and Surface Water Protection Plan and TCEQ Agreed Order Docket No. 2008-0697-MSW-E, Ordering Provision No. 3.b.ii.].</p> <p>3) Failed to maintain the visibility of all required landfill markers, install landfill markers to clearly mark significant features, maintain landfill markers at each corner of the facility and along each boundary line, establish and maintain a buffer zone within and adjacent to the facility boundary, maintain grid markers painted white, and to place soils and liner evaluation report ("SLER") and geomembrane liner evaluation report ("GLER") liner</p>	<p>Total Assessed: \$80,625</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$80,625</p> <p>Total Paid to General Revenue: \$0</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification:</p> <p>Human health or the environment has been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Submitted a letter dated September 4, 2009 certifying that:</p> <p>i. A full-time litter collection employee was hired and that the working face of the landfill is being maintained and operated to control windblown solid waste; and</p> <p>ii. The intermediate cover of the landfill is being maintained with at least 12 inches of suitable earthen material.</p> <p>b. Submitted documentation demonstrating that all landfill markers have been repainted to enhance color distinction and make visible, in addition a resurvey was conducted for buffer zones, boundary lines and SLER and GLER as of March 19, 2010;</p> <p>c. Submitted documentation demonstrating that a contractor was hired to monitor the landfill gases on a quarterly basis and submitted a copy of the monitoring report for the fourth quarter of 2009 conducted on December 7, 2009;</p> <p>d. Submitted photographs documenting that GMWs 2 and 3 were numbered and the pads were cleared of soil and that barriers were placed surrounding the wells to keep soils from building up on the pads on March 9, 2010;</p> <p>e. Submitted documentation demonstrating that a contractor was hired to set up a site operating record system and that gas and groundwater quarterly monitoring reports have been placed in the operating records, to include the August 14 and October 29, 2008 and January 15, 2009 gas monitoring reports, as well as submitting copies of the required quarterly results to the TCEQ Corpus</p>

<p>area markers [30 TEX. ADMIN. CODE § 330.143(a), (b)(1), (b)(2) and (b)(6), and MSW Permit 235B, SOP, Section 4.11.].</p> <p>4) Failed to conduct quarterly monitoring of landfill gases [30 TEX. ADMIN. CODE § 330.159.].</p> <p>5) Failed to maintain the integrity of the Gas Monitoring Wells ("GMWs") [30 TEX. ADMIN. CODE § 305.125(1) and MSW Permit 235B, SDP, Attachment 14, Landfill Gas Management Plan ("LGMP"), Section 4.1.3.].</p> <p>6) Failed to retain all results from gas and groundwater monitoring in the operating record and submit results to the TCEQ Regional Office [30 TEX. ADMIN. CODE § 330.125(b)(3) and (5) and MSW Permit 235B, SDP, Attachment 14, LGMP, Section 5.0, and SOP Section 1.2.].</p> <p>7) Failed to maintain personnel training records [30 TEX. ADMIN. CODE §§ 330.125(e) and 335.586(d)(3) and MSW Permit 235B, SOP Section 4.1.].</p> <p>8) Failed to provide all-weather roads from the Facility to access public roads [30 TEX. ADMIN. CODE § 330.153(a) and MSW Permit 235B, SOP Section 4.16.].</p> <p>9) Failed to follow the construction specifications for the installation of Groundwater Monitoring Wells ("MWs") [30 TEX. ADMIN. CODE § 330.421(a)(2) and (d)].</p> <p>10) Failed to comply with permit requirements by failing to ensure that the leachate collection system remains in good working order [30 TEX. ADMIN. CODE § 305.125(1) and MSW Permit 235B, SOP Section 4.3.2.].</p> <p>11) Failed to have a composite liner and leachate collection system that is designed and constructed to maintain less than a 30-centimeter depth of leachate over the liner [30 TEX. ADMIN. CODE § 330.331(a)(2) and MSW Permit 235B, SDP, Attachment 15, Leachate and Contaminated Water Plan ("LCWP") Section 3.1.1.].</p> <p>12) Failed to meet the minimum frequency for quarterly measuring of leachate levels [30 TEX. ADMIN. CODE § 305.125(1) and MSW Permit 235B, SDP Attachment 15, LCWP, Section 3.2.].</p>		<p>Christi Regional Office on July 31, 2009;</p> <p>f. Submitted documentation demonstrating that all personnel training records were being maintained as of March 12, 2010;</p> <p>g. Submitted documentation and photographs demonstrating that all-weather roads from the Facility to access public roads were provided as of March 25, 2010;</p> <p>h. Submitted documentation that groundwater monitoring well elevations were marked, the top of MW-8 was raised to regulated height, MW-20 lid was reattached and locked, MW-24 was marked with an identification number and MW-8 and 12 were permanently marked as of March 15, 2010;</p> <p>i. Submitted documentation of repairs and rehabilitation made to the two leachate pumping systems, and a pumping log indicating the equipment was in good working order as of February 25, 2010;</p> <p>j. Submitted documentation demonstrating that the leachate collection system was maintaining less than a 30-centimeter depth of leachate over the liner as of February 25, 2010;</p> <p>k. Submitted documentation demonstrating the commencement of the required quarterly monitoring of the leachate system levels beginning on February 25, 2010;</p> <p>l. Submitted documentation demonstrating that the 3-strand barbed wire fence on the east property line was repaired on March 9, 2010; and</p> <p>m. Submitted documentation demonstrating that the brush pile located in the undeveloped Sector 5 was removed on March 29, 2010.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete two Supplemental Environmental Projects (SEP's). (See SEP Attachments A and B)</p>
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<p>13) Failed to provide controlled access to the entire Facility [30 TEX. ADMIN. CODE § 330.131 and MSW Permit 235B, SOP Section 4.5.].</p>		
<p>14) Failed to prevent disposal of municipal solid waste in an unauthorized area [30 TEX. ADMIN. CODE § 330.133(b)].</p>		

Additional ID No(s): MSW 235B

Attachment A
Docket Number: 2009-2049-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Kingsville

Payable Penalty Amount: Eighty Thousand Six Hundred Twenty-Five Dollars
(\$80,625)

SEP Amount: Forty Thousand Three Hundred Thirteen Dollars
(\$40,313)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and
Development Areas, Inc. (“RC&D”)-Abandoned Tire
Clean-Up

Location of SEP: Kleberg County

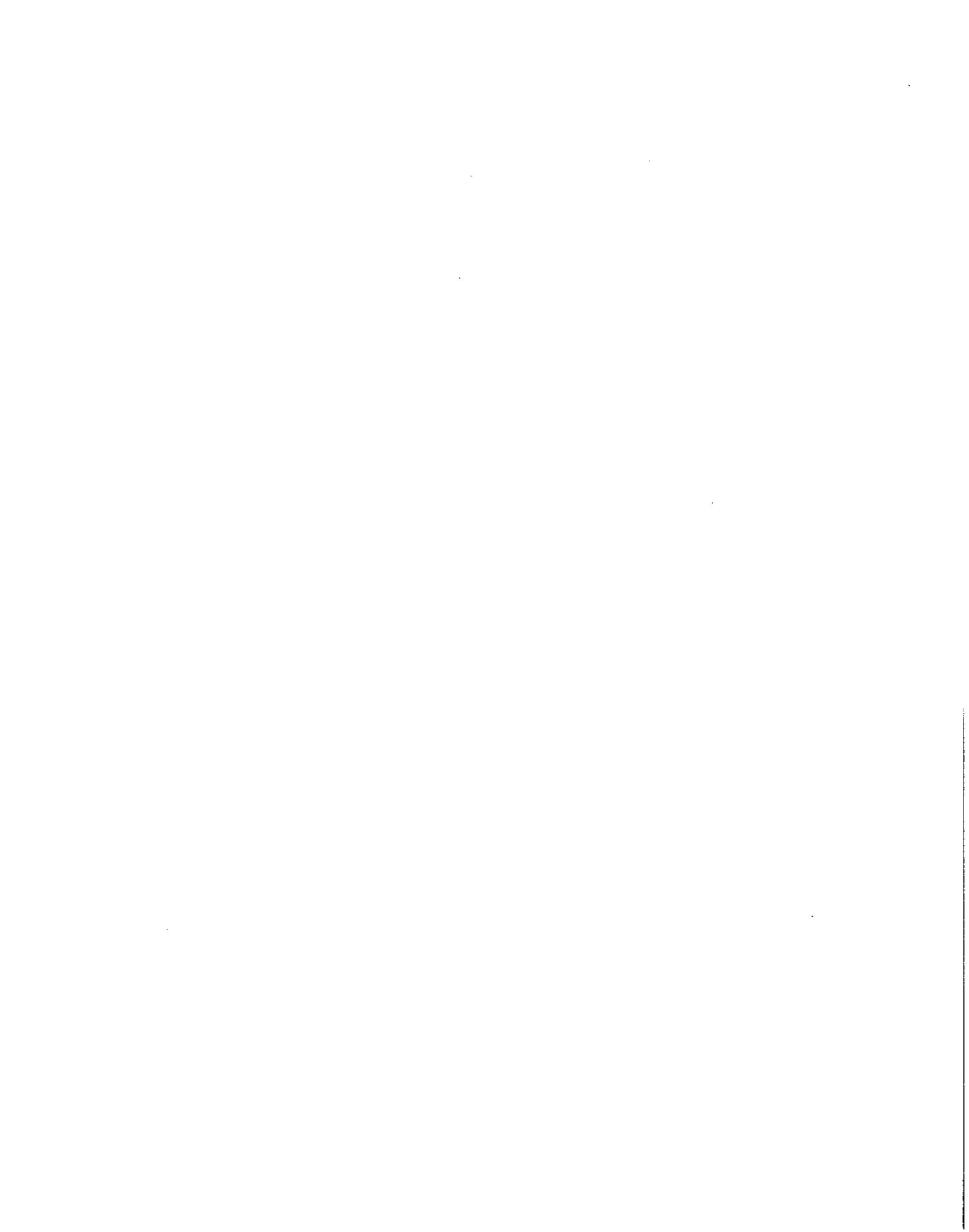
The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Abandoned Tire Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.



B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of Kingsville
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Attachment B
Docket Number: 2009-2049-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Kingsville

Payable Penalty Amount: Eighty Thousand Six Hundred Twenty-Five Dollars
(\$80,625)

SEP Amount: Forty Thousand Three Hundred Twelve Dollars
(\$40,312)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and
Development Areas, Inc. (RC&D)-Household
Hazardous Waste Clean-Up

Location of SEP: Kleberg County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Sep-2009			
	PCW	16-Jul-2010	Screening	6-Oct-2009	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Kingsville
Reg. Ent. Ref. No.	RN102334570
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	35798	No. of Violations	11
Docket No.	2009-2049-MSW-E	Order Type	Findings
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Elvia Maske
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes: Enhancement for two Orders with denial and three NOV's with same or similar violations.

Culpability **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit **Subtotal 6**

Total EB Amounts	\$5,296
Approx. Cost of Compliance	\$87,700

*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 **Adjustment**

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 6-Oct-2009

Docket No. 2009-2049-MSW-E

PCW

Respondent City of Kingsville

Policy Revision 2 (September 2002)

Case ID No. 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334570

Media [Statute] Municipal Solid Waste

Enf. Coordinator Elvia Maske

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)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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) 55%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two Orders with denial and three NOVs with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

Screening Date 6-Oct-2009

Docket No. 2009-2049-MSW-E

PCW

Respondent City of Kingsville

Policy Revision 2 (September 2002)

Case ID No. 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334570

Media [Statute] Municipal Solid Waste

Enf. Coordinator Elvia Maske

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.139: Municipal Solid Waste ("MSW") Permit 236B, Site Operating Plan ("SOP") Section 4.9 and TCEQ Agreed Order Docket No. 2008-0697-MSW-E, Ordering Provision No. 3.a.ii.

Violation Description

Failed to maintain and operate the working face in a manner to control windblown solid waste, as documented during an investigation conducted on August 11, 2009. Specifically, windblown litter was observed scattered throughout the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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 \$9,000

\$1,000

Violation Events

Number of Violation Events 1

217 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the August 11, 2009 investigation date.

Good Faith Efforts to Comply

25.0% Reduction

\$250

Extraordinary

Ordinary

N/A

Notes

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary	X	
N/A		(mark with x)

The Respondent achieved compliance on September 4, 2009, prior to the September 11, 2009 Notice of Enforcement ("NOE").

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$1,300

This violation Final Assessed Penalty (adjusted for limits) \$1,300

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
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	One-time Costs	EB Amount
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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	\$500	30-Jan-2009	4-Sep-2009	0.59	\$15	n/a	\$15
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure that windblown litter is controlled on the working face. The date required is the effective date of the prior order and the final date is the 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	\$500	TOTAL	\$15
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Screening Date 6-Oct-2009

Docket No. 2009-2049-MSW-E

PCW

Respondent City of Kingsville

Policy Revision 2 (September 2002)

Case ID No. 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334570

Media [Statute] Municipal Solid Waste

Enf. Coordinator Elvia Maska

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 330.143(a), (b)(1), (b)(2), and (b)(6) and MSW Permit 235B, SOP, Section 4.11

Violation Description

Failed to maintain the visibility of all required landfill markers. Specifically, the investigator observed that the soil liner or geomembrane liner area and buffer zone markers were faded and difficult to distinguish. Failed to install landfill markers to clearly mark significant features. Failed to maintain landfill markers at each corner of the facility and along each boundary line at intervals no greater than 300 feet. Failed to maintain a buffer zone within and adjacent to the facility boundary on property owned or controlled by the owner or operator. Failed to maintain grid markers painted white and failed to place soils and liner evaluation report ("SLER") and geomembrane liner evaluation report ("GLER") liner area markers so that all areas for which a SLER or GLER has been submitted are readily determinable.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					25%
Potential			x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 66

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

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the August 11, 2009 investigation to the October 6, 2009 screening date.

Good Faith Efforts to Comply

10.0% Reduction \$250

	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A	(mark with x)	

Notes The Respondent achieved compliance on March 19, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$3,625

This violation Final Assessed Penalty (adjusted for limits) \$3,625

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
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
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)	\$500	11-Aug-2009	19-Mar-2010	0.60	\$15	n/a	\$15

Notes for DELAYED costs

Estimated cost to maintain the visibility of all required landfill markers. The date required is the investigation date and the final date is the 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

\$600

TOTAL

\$15

Screening Date 6-Oct-2009

Docket No. 2009-2049-MSW-E

PCW

Respondent City of Kingsville

Policy Revision 2 (September 2002)

Case ID No. 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334570

Media [Statute] Municipal Solid Waste

Enf. Coordinator Elvia Maske

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 330.159 and 305.125(1) and MSW Permit 235B, SDP, Attachment 14, Landfill Gas Management Plan ("LGMP"), Section 4.1.3

Violation Description

Failed to conduct monitoring of landfill gases on a quarterly basis in accordance with the monitoring frequency of the LGMP and failed to maintain the integrity of the Gas Monitoring Wells ("GMWs"). Specifically, GMWs 2 and 3 were not numbered and the pads were covered with approximately two inches of dirt.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

The Respondent achieved compliance on January 27, 2010

Number of Violation Events 1

56 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the August 11, 2009 investigation to the October 6, 2009 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

	Before NOV	NOV to EDRP/Settlement Offer
	Extraordinary	
Ordinary		X
N/A		(mark with x)

Notes The Respondent achieved compliance on March 9, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$322

Violation Final Penalty Total \$3,625

This violation Final Assessed Penalty (adjusted for limits) \$3,625

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
Media: Municipal Solid Waste
Violation No.: 4

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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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)	\$200	11-Aug-2009	9-Mar-2010	0.58	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to number, label, lock, and maintain the integrity of the GMWs. The date required is the investigation date and the final date is the 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	\$500	1-May-2009	7-Dec-2009	0.60	\$15	\$301	\$316
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

Estimated cost to monitor the landfill gases and inspect the GMWs. Date required is the first day monitoring of the landfill gases was required and the final date is the date of compliance.

Approx. Cost of Compliance

\$700

TOTAL

\$322

Screening Date 6-Oct-2009

Docket No. 2009-2049-MSW-E

PCW

Respondent City of Kingsville

Policy Revision 2 (September 2002)

Case ID No. 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334570

Media [Statute] Municipal Solid Waste

Enf. Coordinator Elvia Maske

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 330.125(b)(3) and (5) and MSW Permit 235B, SDP, Attachment 14, LGMP, Section 5.0, and SOP Section 1.2

Violation Description

Failed to retain all results from gas and groundwater monitoring in the operating record within seven working days of completion or receipt of data record, and to submit quarterly results to the TCEQ Regional Office. Specifically, the gas monitoring reports did not include the Gas Monitoring Data Form for the August 14, 2008; October 29, 2008 and January 15, 2009 monitoring events, and the Groundwater Monitoring Reports were not being maintained in the site operating record and were not available for review. Furthermore, the methane gas quarterly monitoring and inspection results from April 13, 2006 through February 5, 2009 were not submitted to the Corpus Christi Regional Office as stipulated in the SOP.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			25%

Matrix Notes

Greater than 70% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 Number of violation days 29

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

Violation Base Penalty \$5,000

Two single events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance on July 31, 2009, prior to the September 11, 2009 NOE.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$6,500

This violation Final Assessed Penalty (adjusted for limits) \$6,500

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
Media: Municipal Solid Waste
Violation No.: 5

Percent Interest:	Years of Depreciation:
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	2-Jul-2009	31-Jul-2009	0.08	\$2	n/a	\$2
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 maintain gas and groundwater monitoring and inspection reports in the site operating record and make available for review and submittal. The date required is the investigation date and the final date is the 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

\$500

TOTAL

\$2

Screening Date: 8-Oct-2009

Docket No.: 2009-2049-MSW-E

PCW

Respondent: City of Kingsville

Policy Revision 2 (September 2002)

Case ID No.: 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102334570

Media [Statute]: Municipal Solid Waste

Enf. Coordinator: Elvia Maske

Violation Number: 2

Rule Cite(s): 30 Tex. Admin. Code §§ 330.185(c) and 330.305(d); MSW Permit 295B; Section 4.22, Site Development Plan ("SDP"), Attachment 6, Groundwater and Surface Water Protection Plan and TCEQ Agreed Order Docket No. 2008-0697-MSW-E; Ordering Provision No. 3.b.ii.

Violation Description:

Failed to maintain at least 12 inches of suitable earthen material and to provide effective stability to top dome surfaces and external embankment side slopes during all phases of landfill operation. Specifically, erosion was observed on both the internal and external slopes of the Sector 1 intermediate area and Sector 2, the active area of the landfill.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: \$7,500

\$2,500

Violation Events

Number of Violation Events: 3 Number of violation days: 217

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

Violation Base Penalty: \$7,500

Three quarterly events are recommended from the January 30, 2009 prior agreed order to the September 4, 2009 compliance date.

Good Faith Efforts to Comply

	25.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance on September 4, 2009, prior to the September 11, 2009 NOE.

Violation Subtotal: \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$21

Violation Final Penalty Total: \$9,750

This violation Final Assessed Penalty (adjusted for limits): \$9,750

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
Media: Municipal Solid Waste
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$500	30-Jan-2009	4-Sep-2009	0.59	\$1	\$20	\$21
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to apply and maintain intermediate cover. The date required is the effective date of the prior order and the final date is the 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

\$500

TOTAL

\$21

Screening Date: 6-Oct-2009

Docket No. 2009-2049-MSW-E

PCW

Respondent: City of Kingsville

Policy Revision 2 (September 2002)

Case ID No. 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334570

Media [Statute]: Municipal Solid Waste

Enf. Coordinator: Elvia Maske

Violation Number: 9

Rule Cite(s): 30 Tex. Admin. Code §§ 305.125(1) and 330.331(a)(2) and MSW Permit-235B, SOP Section 4:3.2, SDP Attachment 16, Leachate and Contaminated Water Plan ("LCWP") Sections 3.2 and 3.1.1

Violation Description:

Failed to comply with permit requirements by failing to ensure that the leachate collection system remains in good working order. Specifically, the digital panels on the sumps were inoperable. Failed to have a composite liner and leachate collection system that is designed and constructed to maintain less than a 30-centimeter (12-inch) depth of leachate over the liner. Specifically, during the August 11, 2009 investigation, a record review showed that leachate readings on the south pump ranged from 18 inches to 86 inches over the liner, on the north pump from 19 inches to 93 inches over the liner and that the south pump was inoperable since December 2008. Also failed to meet the minimum frequency for quarterly measuring of leachate levels. Specifically, monitoring had not been conducted since December 2008.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					25%
Potential			X		

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: \$7,500

\$2,500

Violation Events

Number of Violation Events: 4 Number of violation days: 278

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty: \$10,000

Four quarterly events are recommended from when monitoring ceased on December 31, 2008 to the October 6, 2009 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$1,000

	Before NOV	NOV to EDP/PS/Settlement Offer
	Extraordinary	
Ordinary		X
N/A		(mark with x)

Notes: The Respondent achieved compliance on February 25, 2010.

Violation Subtotal: \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$3,143

Violation Final Penalty Total: \$14,500

This violation Final Assessed Penalty (adjusted for limits): \$14,500

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
Media: Municipal Solid Waste
Violation No.: 9

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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Delayed Costs

Equipment	\$20,000	31-Dec-2008	25-Feb-2010	1.15	\$77	\$1,538	\$1,615
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	31-Dec-2008	25-Feb-2010	1.15	\$38	\$769	\$807
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$2,000	31-Dec-2008	25-Feb-2010	1.15	\$115	n/a	\$115
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 replace the leachate collection system, develop and implement procedures to ensure the collection system remains in good working order and that the leachate levels are monitored on a quarterly basis and maintain levels under 30-centimeters as required by the permit. The date required is the date the south pump ceased operating and the final date is the compliance date.

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	\$500	31-Dec-2008	25-Feb-2010	1.15	\$29	\$577	\$606
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

Estimated cost to conduct quarterly monitoring of the leachate levels. The date required is the last day of the month that monitoring ceased and the final date is the compliance date.

Approx. Cost of Compliance

\$32,500

TOTAL

\$3,143

Screening Date 6-Oct-2009

Docket No. 2009-2049-MSW-E

PCW

Respondent City of Kingsville

Policy Revision 2 (September 2002)

Case ID No. 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334570

Media [Statute] Municipal Solid Waste

Enf. Coordinator Elvia Maske

Violation Number 10

Rule Cite(s)

30 Tex. Admin. Code § 330.151 and MSW Permit 235B, SOP Section 4.5

Violation Description

Failed to provide controlled access to the entire Facility by means of artificial or natural barriers, or a combination of both. Specifically, the 3-stranded barbed wire fence on the east property line was down on the ground.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

Matrix Notes

Human health and safety and the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is being recommended from the August 11, 2009 investigation date to the October 6, 2009 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

	Before NOV	NOV to EDCRP/ Settlement Offer
	Extraordinary	
Ordinary		X
N/A		(mark with x)

Notes

The Respondent achieved compliance on March 9, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$40

Violation Final Penalty Total \$3,625

This violation Final Assessed Penalty (adjusted for limits) \$3,625

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
Media: Municipal Solid Waste
Violation No.: 10

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,000	11-Aug-2009	9-Mar-2010	0.58	\$2	\$38	\$40
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair or replace the fallen fence. The date required is the investigation date and the final date is the 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

\$1,000

TOTAL

\$40

Screening Date: 6-Oct-2009

Docket No: 2009-2049-MSW-E

PCW

Respondent: City of Kingsville

Policy Revision 2 (September 2002)

Case ID No: 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN102334570

Media [Statute]: Municipal Solid Waste

Enf. Coordinator: Elvia Maske

Violation Number: 11

Rule Cite(s): 30 Tex. Admin. Code § 330.133(b)

Violation Description: Failed to prevent disposal of municipal solid waste in an unauthorized area. Specifically, approximately 720,000 cubic yards of brush has been disposed of in the undeveloped Sector 5 unit, east of the designated brush unloading area.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			100%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes: Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: \$0

\$10,000

Violation Events

Number of Violation Events: 2 Number of violation days: 56

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty: \$20,000

Two monthly events are being recommended from the August 11, 2009 investigation date to the October 6, 2009 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$2,000

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary		x
N/A		(mark with x)

Notes: The Respondent achieved compliance on March 29, 2010.

Violation Subtotal: \$18,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$1,260

Violation Final Penalty Total: \$29,000

This violation Final Assessed Penalty (adjusted for limits): \$29,000

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
Media: Municipal Solid Waste
Violation No.: 11

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	One-time Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$40,000	11-Aug-2009	29-Mar-2010	0.63	\$1,260	n/a	\$1,260
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to move the waste to an authorized area. The date required is the investigation date and the final date is the 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

\$40,000

TOTAL

\$1,260

Screening Date: 6-Oct-2009

Docket No: 2009-2049-MSW-E

PCW

Respondent: City of Kingsville

Policy Revision 2 (September 2002)

Case ID No: 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN102334570

Media [Statute]: Municipal Solid Waste

Enf. Coordinator: Elvia Maske

Violation Number: 6

Rule Cite(s): 30 Tex. Admin. Code §§ 330.125(e) and 335.586(d)(3) and MSW Permit 235B; SOP Section 4.1

Violation Description

Failed to maintain personnel training records. Specifically, the records lacked a written description of the type and amount of both introductory and continuing training that will be given to each person and what each person has received. The records did not contain required training in communications in the event of an emergency, Storm Water Pollution Prevention Plan, and shutdown procedures.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent: 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		X	

Percent: 10%

Matrix Notes

At least 30% of the rule requirement was not met.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 1

Number of violation days: 214

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty: \$1,000

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$100

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent achieved compliance on March 12, 2010.

Violation Subtotal: \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$15

Violation Final Penalty Total: \$1,450

This violation Final Assessed Penalty (adjusted for limits): \$1,450

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
Media: Municipal Solid Waste
Violation No.: 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$500	11-Aug-2009	12-Mar-2010	0.58	\$15	n/a	\$15
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 maintain training records. The date required is the investigation date and the final date is the 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

\$500

TOTAL

\$15

Screening Date 6-Oct-2009

Docket No. 2009-2049-MSW-E

PCW

Respondent City of Kingsville

Policy Revision 2 (September 2002)

Case ID No. 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334570

Media [Statute] Municipal Solid Waste

Enf. Coordinator Elvia Maske

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 330.153(a) and MSW Permit 235B, SOP Section 4.18

Violation Description

Failed to provide all-weather roads from the Facility to access public roads. Specifically, there was no perimeter road south of the Type IV Sector and on the west property boundary of Sector 1.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

1

56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the August 11, 2009 investigation to the October 6, 2009 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent achieve compliance on March 25, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$433

Violation Final Penalty Total \$3,625

This violation Final Assessed Penalty (adjusted for limits) \$3,625

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
Media: Municipal Solid Waste
Violation No.: 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	11-Aug-2009	25-Mar-2010	0.62	\$21	\$413	\$433
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide all-weather roads from the Facility to access public roads. The date required is investigation date and the final date is the 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

\$10,000

TOTAL

\$433

Screening Date: 8-Oct-2009

Docket No.: 2009-2049-MSW-E

PCW

Respondent: City of Kingsville

Policy Revision 2 (September 2002)

Case ID No.: 35798

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102334570

Media [Statute]: Municipal Solid Waste

Enf. Coordinator: Elvia Maske

Violation Number: 8

Rule Cite(s):

30 Tex. Admin. Code § 330.421(a)(2) and (d)

Violation Description:

Failed to follow the construction specifications for the installation of groundwater monitoring wells ("MWs"). Specifically, the point on the well casing for which the elevation is determined was not marked on the casings. The top of the casing for MW-8 is less than 2 feet in height above ground level. MW-20's lid was detached from the casing and not locked. The identification number for MW-24 was absent and the numbers on MW-8 and 12 were not permanently marked.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent: 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent: 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: \$7,500

\$2,500

Violation Events

1

56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$2,500

One quarterly event is recommended from the August 11, 2009 investigation to the October 6, 2009 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent achieve compliance on March 15, 2010.

Violation Subtotal: \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$30

Violation Final Penalty Total: \$3,625

This violation Final Assessed Penalty (adjusted for limits): \$3,625

Economic Benefit Worksheet

Respondent: City of Kingsville
Case ID No.: 35798
Reg. Ent. Reference No.: RN102334570
Media: Municipal Solid Waste
Violation No.: 8

Percent Interest	Years of Depreciation
6.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$1,000	11-Aug-2009	15-Mar-2010	0.59	\$30	n/a	\$30

Notes for DELAYED costs

Estimated cost to mark the elevation levels on the well casings, extend MW-8 casing to not be less than 2 feet in height, attach and lock the lid on MW-20 and permanently identify MW-24, MW-8 and 12. The date required is the investigation date and the final date is the 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

\$1,000

TOTAL

\$30

Compliance History Report

Customer/Respondent/Owner-Operator: CN600674246 City of Kingsville Classification: AVERAGE Rating: 7.37
Regulated Entity: RN102334570 CITY OF KINGSVILLE LANDFILL Classification: AVERAGE Site Rating: 38.25
ID Number(s): MUNICIPAL SOLID WASTE DISPOSAL PERMIT 235B
AIR NEW SOURCE PERMITS ACCOUNT NUMBER KJ0007F
STORMWATER PERMIT TXR05L074
Location: 348 E COUNTY ROAD 2130, KINGSVILLE, TX, 78363
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: October 6, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 06, 2004 to October 06, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Elvia Maske Phone: (512) 239 - 0789

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.
- Effective Date: 01/12/2008 ADMINORDER 2007-0765-WQ-E
- Classification: Minor
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)
Rqmt Prov: Permit Provision III.A.3. PERMIT
Description: Failed to certify the non-storm water discharge survey within 180 days of the submittal of the Notice of Intent ("NOI")
- Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)
Rqmt Prov: Permit Provision III.A.7. PERMIT
Description: Failed to perform the Annual Comprehensive Site Compliance Evaluation ("ACSCE") and submit the report in 2004, 2005, and 2006
- Effective Date: 01/30/2009 ADMINORDER 2008-0697-MSW-E
- Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter D 330.165(c)
Rqmt Prov: SOP Section 4.22, Immediate Cover PERMIT
Description: Failed to maintain at least 12 inches of suitable earthen material, not previously mixed with garbage, rubbish, or other solid waste. Specifically, the intermediate area exhibited severe erosion.
- Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter G 330.301
Description: Failed to submit a permit modification application to incorporate the 2006 rule revisions to 30 TEX. ADMIN. CODE §§ 330.301 through 330.307, in accordance with 30 Tex. Admin. Code § 305.70(1). Specifically, the Respondent failed to submit a permit modification application to revise the Groundwater and Surface Water Protection Plan to address interim controls for intermediate cover by September 23, 2006.
- Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter G 330.305(e)(1)
Description: Failed to maintain the collection, drainage, and/or storage units as designed, and restore and repair the drainage system in the event of washout or failure. Specifically, it was observed that the berm on the north boundary of Section 1 had been breached, and the presence of ponded water was observed.
- Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter D 330.139
Rqmt Prov: SOP Sect 4.9 Control of Windblown Litter PERMIT

Description: Failed to maintain and operate the working face in a manner to control windblown solid waste. Specifically, windblown litter was observed coming from the active face and an excessive amount of windblown litter was observed throughout the Facility.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter D 330.165(a)

Rqmt Prov: SOP Section 4.22 Daily Cover PERMIT

Description: Failed to apply six inches of well-compacted earthen material not previously mixed with garbage, rubbish, or other solid waste at the end of each operating day to control disease vectors, fires, odors, windblown litter or waste. Specifically, municipal solid waste was visibly protruding through the areas that had previously received daily cover.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	01/10/2006	(437154)
2	04/20/2007	(554331)
3	04/14/2008	(617534)
4	05/01/2009	(743518)
5	06/18/2009	(747836)
6	06/18/2009	(747848)
7	06/18/2009	(747853)
8	09/11/2009	(762850)

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

Date: 02/13/2007 (534427)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
MSGP, Part III, Section E.2(c)(1) PERMIT

Description: Failure to at all times ensure that the facility and all of its systems of collection, treatment and disposal are properly operated and maintained in a manner that minimizes the discharge of excessive pollutants.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter D 330.139(2)
SOP Sec 1.12 Control of Windblown Materi PERMIT

Description: Failure to collect litter within, and around the landfill site weekly or more often as necessary to minimize unhealthy, unsafe, or unsightly conditions. During the investigation, windblown litter was observed outside of the perimeter fence on FM 2130.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter D 330.165(a)
SOP Section 1.25.1 Daily Cover PERMIT

Description: Failure to ensure that cover is placed daily on the top and side of the working area. During the investigation the active face lacked the required six inches of well compacted daily cover.

Failure to ensure that cover is placed daily on the top and side of the working area. During the investigation the active face l

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter D 330.165(c)
SOP Section 4.22, Immediate Cover PERMIT

Description: Failed to maintain at least 12 inches of suitable earthen material, not previously mixed with garbage, rubbish, or other solid waste. Specifically, the intermediate area exhibited severe erosion.

Date: 10/05/2007 (572122)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES General Permit No. TXR050000 PERMIT

Description: Failure to develop measures to address erosion.

Date: 01/30/2009 (708318)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
SOP Section 4.1 PERMIT

Description: Failure to conduct monthly training for landfill personnel in the required waste management procedures and contingency plan implementation.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 330, SubChapter D 330.125(b)(2)
SOP Section 1.2 PERMIT

Description: Failure to record and retain the training procedures in the operating record within seven working days of completion.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter D 330.133(a)
SOP Section 4.6 PERMIT

Description: Failure to maintain a trained landfill person on duty during regular operating hours at the working face to direct and monitor unloading of solid waste.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter D 330.165(a)
SOP Section 4.22 PERMIT

Description: Failure to apply six inches of well-compacted earthen material not previously mixed with garbage, rubbish, or other solid waste at the end of each operating day to control disease, vectors, fires, odors, windblown litter or waste. During the investigation municipal solid waste was observed visibly protruding through the areas that had previously received daily cover.

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
CITY OF KINGSVILLE
RN102334570

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-2049-MSW-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Kingsville ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a municipal solid waste ("MSW") landfill at 348 East County Road 2130 in Kingsville, Kleberg County, Texas (the "Facility").
2. The Facility involves or involved the management of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361.

3. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to maintain and operate the working face in a manner to control windblown solid waste. Specifically, windblown litter was observed scattered throughout the Facility.
4. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to maintain at least 12 inches of suitable earthen material and to provide effective stability to top dome surfaces and external embankment side slopes during all phases of landfill operation. Specifically, erosion was observed on both the internal and external slopes of the Sector 1 intermediate area and Sector 2, the active area of the landfill.
5. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to maintain the visibility of all required landfill markers. Specifically, the investigator observed that the soil liner or geomembrane liner area and buffer zone markers were faded and difficult to distinguish. Failed to install landfill markers to clearly mark significant features. Failed to maintain landfill markers at each corner of the facility and along each boundary line at intervals no greater than 300 feet. Failed to maintain a buffer zone within and adjacent to the facility boundary on property owned or controlled by the owner or operator. Failed to maintain grid markers painted white and failed to place soils and liner evaluation report ("SLER") and geomembrane liner evaluation report ("GLER") liner area markers so that all areas for which a SLER or GLER has been submitted are readily determinable.
6. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to conduct monitoring of landfill gases on a quarterly basis in accordance with the monitoring frequency of the Landfill Gas Management Plan ("LGMP").
7. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to maintain the integrity of the Gas Monitoring Wells ("GMWs"). Specifically, GMW 2 and 3 were not numbered and the pads were covered with approximately two inches of dirt.
8. During an investigation on July 2, 2009, TCEQ staff documented that the Respondent failed to retain all results from gas and groundwater monitoring in the operating record within seven working days of completion or receipt of data record, and to submit quarterly results to the TCEQ Regional Office. Specifically, the gas monitoring reports did not include the Gas Monitoring Data Form for the August 14, 2008, October 29, 2008 and January 15, 2009 monitoring events, and the Groundwater Monitoring Reports were not being maintained in the site operating record and were not available for review. Furthermore, the methane gas quarterly monitoring and inspection results from April 13, 2006 through February 5, 2009 were not submitted to the Corpus Christi Regional Office as stipulated in the SOP.
9. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to maintain personnel training records. Specifically, the records lacked a written description of the type and amount of both introductory and continuing training that will be given to each person and what each person has received. The records did not contain required training in communications in the event of an emergency, Storm Water Pollution Prevention Plan, and shutdown procedures.

10. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to provide all-weather roads from the Facility to access public roads. Specifically, there was no perimeter road south of the Type IV Sector and on the west property boundary of Sector 1.
11. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to follow the construction specifications for the installation of groundwater monitoring wells ("MWs"). Specifically, the point on the well casing for which the elevation is determined was not marked on the casings. The casing for MW-8 is less than 2 feet in height. MW-20's lid was detached from the casing and not locked. The identification number for MW-24 was absent and the numbers on MW-8 and 12 were not permanently marked.
12. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to comply with permit requirements by failing to ensure that the leachate collection system remains in good working order. Specifically, the digital panels on the sumps were inoperable.
13. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to have a composite liner and leachate collection system that is designed and constructed to maintain less than a 30-centimeter (12-inch) depth of leachate over the liner. Specifically, during the investigation, a record review showed that leachate readings on the south pump ranged from 18 inches to 86 inches over the liner, and on the north pump from 19 inches to 93 inches over the liner. The south pump was inoperable since December 2008.
14. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to meet the minimum frequency for quarterly measuring of leachate levels. Specifically, monitoring had not been conducted since December 2008.
15. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to provide controlled access to the Facility by means of artificial or natural barriers, or a combination of both. Specifically, the 3-stranded barbed wire fence on the east property line was down on the ground.
16. During an investigation on August 11, 2009, TCEQ staff documented that the Respondent failed to prevent disposal of municipal solid waste in an unauthorized area. Specifically, approximately 720,000 cubic yards of brush has been disposed of in the undeveloped Sector 5 unit, east of the designated brush unloading area.
17. The Respondent received notice of the violations on September 16, 2009.
18. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Submitted a letter dated September 4, 2009 certifying that:
 - i. A full-time litter collection employee was hired and that the working face of the landfill is being maintained and operated to control windblown solid waste; and
 - ii. The intermediate cover of the landfill is being maintained with at least 12 inches of suitable earthen material.

- b. Submitted documentation demonstrating that all landfill markers have been repainted to enhance color distinction and make visible, in addition a resurvey was conducted for buffer zones, boundary lines and SLER and GLER as of March 19, 2010;
- c. Submitted documentation demonstrating that a contractor was hired to monitor the landfill gases on a quarterly basis and submitted a copy of the monitoring report for the fourth quarter of 2009 conducted on December 7, 2009;
- d. Submitted photographs documenting that GMWs 2 and 3 were numbered and the pads were cleared of soil and that barriers were placed surrounding the wells to keep soils from building up on the pads on March 9, 2010;
- e. Submitted documentation demonstrating that a contractor was hired to set up a site operating record system and that gas and groundwater quarterly monitoring reports have been placed in the operating records, to include the August 14 and October 29, 2008 and January 15, 2009 gas monitoring reports, as well as submitting copies of the required quarterly results to the TCEQ Corpus Christi Regional Office on July 31, 2009;
- f. Submitted documentation demonstrating that all personnel training records were being maintained as of March 12, 2010;
- g. Submitted documentation and photographs demonstrating that all-weather roads from the Facility to access public roads were provided as of March 25, 2010;
- h. Submitted documentation that groundwater monitoring well elevations were marked, the top of MW-8 was raised to regulated height, MW-20 lid was reattached and locked, MW-24 was marked with an identification number and MW-8 and 12 were permanently marked as of March 15, 2010;
- i. Submitted documentation of repairs and rehabilitation made to the two leachate pumping systems, and a pumping log indicating the equipment was in good working order as of February 25, 2010;
- j. Submitted documentation demonstrating that the leachate collection system was maintaining less than a 30-centimeter depth of leachate over the liner as of February 25, 2010;
- k. Submitted documentation demonstrating the commencement of the required quarterly monitoring of the leachate system levels beginning on February 25, 2010;
- l. Submitted documentation demonstrating that the 3-strand barbed wire fence on the east property line was repaired on March 9, 2010; and
- m. Submitted documentation demonstrating that the brush pile located in the undeveloped Sector 5 was removed on March 29, 2010.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to maintain and operate the working face in a manner to control windblown solid waste, in violation of 30 TEX. ADMIN. CODE § 330.139, MSW Permit 235B, Site Operating Plan ("SOP") Section 4.9 and TCEQ Agreed Order Docket No. 2008-0697-MSW-E, Ordering Provision No. 3.a.ii.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to maintain at least 12 inches of suitable earthen material and to provide effective stability to top dome surfaces and external embankment side slopes during all phases of landfill operation, in violation of 30 TEX. ADMIN. CODE §§ 330.165(c) and 330.305(d), MSW Permit 235B, Section 4.22, Site Development Plan ("SDP") Attachment 6, Groundwater and Surface Water Protection Plan and TCEQ Agreed Order Docket No. 2008-0697-MSW-E, Ordering Provision No. 3.b.ii.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to maintain the visibility of all required landfill markers, install landfill markers to clearly mark significant features, maintain landfill markers at each corner of the facility and along each boundary line, establish and maintain a buffer zone within and adjacent to the facility boundary, maintain grid markers painted white, and to place SLER and GLER liner area markers, in violation of 30 TEX. ADMIN. CODE § 330.143(a), (b)(1), (b)(2) and (b)(6), and MSW Permit 235B, SOP, Section 4.11.
5. As evidenced by Findings of Fact No. 6, the Respondent failed to conduct quarterly monitoring of landfill gases, in violation of 30 TEX. ADMIN. CODE § 330.159.
6. As evidenced by Findings of Fact No. 7, the Respondent failed to maintain the integrity of the GMWs, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and MSW Permit 235B, SDP, Attachment 14, LGMP, Section 4.1.3.
7. As evidenced by Findings of Fact No. 8, the Respondent failed to retain all results from gas and groundwater monitoring in the operating record and submit results to the TCEQ Regional Office, in violation of 30 TEX. ADMIN. CODE § 330.125(b)(3) and (5) and MSW Permit 235B, SDP, Attachment 14, LGMP, Section 5.0, and SOP Section 1.2.
8. As evidenced by Findings of Fact No. 9, the Respondent failed to maintain personnel training records, in violation of 30 TEX. ADMIN. CODE §§ 330.125(e) and 335.586(d)(3) and MSW Permit 235B, SOP Section 4.1.
9. As evidenced by Findings of Fact No. 10, the Respondent failed to provide all-weather roads from the Facility to access public roads, in violation of 30 TEX. ADMIN. CODE § 330.153(a) and MSW Permit 235B, SOP Section 4.16.
10. As evidenced by Findings of Fact No. 11, the Respondent failed to follow the construction specifications for the installation of MWs, in violation of 30 TEX. ADMIN. CODE § 330.421(a)(2) and (d).

11. As evidenced by Findings of Fact No. 12, the Respondent failed to comply with permit requirements by failing to ensure that the leachate collection system remains in good working order, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and MSW Permit 235B, SOP Section 4.3.2.
12. As evidenced by Findings of Fact No. 13, the Respondent failed to have a composite liner and leachate collection system that is designed and constructed to maintain less than a 30-centimeter depth of leachate over the liner, in violation of 30 TEX. ADMIN. CODE § 330.331(a)(2) and MSW Permit 235B, SDP, Attachment 15, Leachate and Contaminated Water Plan ("LCWP") Section 3.1.1.
13. As evidenced by Findings of Fact No. 14, the Respondent failed to meet the minimum frequency for quarterly measuring of leachate levels, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and MSW Permit 235B, SDP Attachment 15, LCWP, Section 3.2.
14. As evidenced by Findings of Fact No. 15, the Respondent failed to provide controlled access to the entire Facility, in violation of 30 TEX. ADMIN. CODE § 330.131 and MSW Permit 235B, SOP Section 4.5.
15. As evidenced by Findings of Fact No. 16, the Respondent failed to prevent disposal of municipal solid waste in an unauthorized area, in violation of 30 TEX. ADMIN. CODE § 330.133(b).
16. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
17. An administrative penalty in the amount of Eighty Thousand Six Hundred Twenty-Five Dollars (\$80,625) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX WATER CODE § 7.053. Eighty Thousand Six Hundred Twenty-Five Dollars (\$80,625) shall be conditionally offset by the Respondent's completion of two Supplemental Environmental Projects ("SEPs").

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Eighty Thousand Six Hundred Twenty-Five Dollars (\$80,625) as set forth in Section II, Paragraph 17 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Kingsville, Docket No. 2009-2049-MSW-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. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 17 (Conclusions of Law) above, Eighty Thousand Six Hundred Twenty-Five Dollars (\$80,625) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
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 Facility 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against 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.

9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallies
For the Executive Director

10/22/2010
Date

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

I understand that by entering into this Agreed Order, City of Kingsville waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Sam R. Fugate
Signature

7/28/10
Date

Sam R. Fugate
Name (Printed or typed)
Authorized Representative of
City of Kingsville

Mayor
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.



Attachment A
Docket Number: 2009-2049-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Kingsville

Payable Penalty Amount: Eighty Thousand Six Hundred Twenty-Five Dollars
(\$80,625)

SEP Amount: Forty Thousand Three Hundred Thirteen Dollars
(\$40,313)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and
Development Areas, Inc. ("RC&D")-Abandoned Tire
Clean-Up

Location of SEP: Kleberg County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Abandoned Tire Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of Kingsville
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Attachment B
Docket Number: 2009-2049-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Kingsville

Payable Penalty Amount: Eighty Thousand Six Hundred Twenty-Five Dollars
(\$80,625)

SEP Amount: Forty Thousand Three Hundred Twelve Dollars
(\$40,312)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and
Development Areas, Inc. (RC&D)-Household
Hazardous Waste Clean-Up

Location of SEP: Kleberg County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

