

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO. 2008-0678-MSW-E TCEQ ID RN104606801 CASE NO. 25928**  
**RESPONDENT NAME: WOOD PROCESSING SERVICES, INC.**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 3236 Chambers Street, Venus, Johnson County

**TYPE OF OPERATION:** wood recycling facility

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired February 1, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Mr. Ross Fife, Waste Enforcement Section, MC 128, (512) 239-2541

**TCEQ Regional Contact:** Mr. Sam Barrett, Dallas/Fort Worth Regional Office, MC R-4, (817) 588-5903

**Respondent:** Ms. Jennifer Dunlap, President, Wood Processing Services, Inc., 6921 Laurel Canyon Terrace, Fort Worth, Texas 76132

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

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input checked="" type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> March 5, 2008 and April 8, 2008</p> <p><b>Date of NOE Relating to this Case:</b> March 11, 2008</p> <p><b>Background Facts:</b> The EDRP was filed on July 22, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the Agreed Order was signed on December 3, 2009.</p> <p><b>Current Compliance Status:</b> No outstanding technical requirements. The Respondent paid the past-due GPS fees in violation no. 2 on July 9, 2008.</p> <p><b>MSW:</b></p> <ol style="list-style-type: none"> <li>Failed to establish and maintain financial assurance for the closure of a recycling facility that stores combustible materials outdoors [30 TEX. ADMIN. CODE §§ 328.5(d) and 37.921, and TCEQ Agreed Order 2005-1314-MSW-E, Ordering Provisions 2.c.ii. and 2.d.].</li> <li>Failed to pay outstanding fees associated to General Permit Stormwater (GPS) for FY08 [TEX. WATER CODE §§ 5.702 and 26.0291 and 30 TEX. ADMIN. CODE § 205.6].</li> </ol>	<p><b>Total Assessed:</b> \$5,862</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$1,000/\$4,862 due</p> <p>The Respondent paid \$1,000 of the administrative penalty. The remaining amount of \$4,862 shall be payable in eleven monthly payments of \$442 each.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> Indifference to legal duty based on violation of a previous Agreed Order.</p>	<p><b>Corrective Actions Taken:</b> The Executive Director recognizes that the Respondent performed the following corrective actions:</p> <ol style="list-style-type: none"> <li>Received an exemption from the financial assurance requirement in November 2009; and</li> <li>Paid all past-due fees.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 8, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	31-Mar-2008	<b>Screening</b>	17-Apr-2008	<b>EPA Due</b>	
	<b>PCW</b>	29-Mar-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Wood Processing Services, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN104606801		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	25928	<b>No. of Violations</b>	2
<b>Docket No.</b>	2008-0678-MSW-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Enf. Coordinator</b>	Judy Kluge
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>35%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$350</b>
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Notes: Enhancements for one NOV with same or similar violations, one Agreed Order, and Poor Performer classification.

<b>Culpability</b>	No	<b>0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	<b>0%</b> Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

<b>Total EB Amounts</b>	<b>\$4,512</b>	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
<b>Approx. Cost of Compliance</b>	<b>\$4,298</b>	<i>*Capped at the Total EB \$ Amount</i>		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,350</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>334%</b>	<b>Adjustment</b>	<b>\$4,512</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended adjustment to capture the avoided cost benefit associated with the violations.

<b>Final Penalty Amount</b>	<b>\$5,862</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$5,862</b>
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<b>DEFERRAL</b>	<b>0%</b> Reduction	<b>Adjustment</b>	<b>\$0</b>
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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.

<b>PAYABLE PENALTY</b>	<b>\$5,862</b>
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**Screening Date** 17-Apr-2008

**Docket No.** 2008-0678-MSW-E

**PCW**

**Respondent** Wood Processing Services, Inc.

*Policy Revision 2 (September 2002)*

**Case ID No.** 25928

*PCW Revision March 8, 2008*

**Reg. Ent. Reference No.** RN104606801

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Judy Kluge

### 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 ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	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)** 25%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Poor Performer

**Adjustment Percentage (Subtotal 7)** 10%

>> **Compliance History Summary**

**Compliance History Notes** Enhancements for one NOV with same or similar violations, one Agreed Order, and Poor Performer Classification.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 35%

Screening Date 17-Apr-2008

Docket No. 2008-0678-MSW-E

PCW

Respondent Wood Processing Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 25928

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN104606801

Media [Statute] Municipal Solid Waste

Enf. Coordinator Judy Kluge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 328.5(d) and 37.921, and TCEQ Agreed Order Docket No. 2005-1314-MSW-E, Ordering Provision 2.c.ii. and 2.d.

Violation Description Failed to establish and maintain approved financial assurance for the closure of a recycling facility that stores combustible materials outdoors. Specifically, the Respondent did not have financial assurance at the time of the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>>Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 43 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,512

Violation Final Penalty Total \$5,862

This violation Final Assessed Penalty (adjusted for limits) \$5,862

## Economic Benefit Worksheet

**Respondent** Wood Processing Services, Inc.  
**Case ID No.** 25928  
**Reg. Ent. Reference No.** RN104606801  
**Media** Municipal Solid Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$4,298	29-Jun-2007	5-Mar-2008	1.0	\$215	\$4,298	\$4,512
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of obtaining financial assurance for the facility. Date Required is the beginning date of the violation and the Final Date is the investigation date.

Approx. Cost of Compliance

\$4,298

**TOTAL**

\$4,512

Screening Date 17-Apr-2008

Docket No. 2008-0678-MSW-E

PCW

Respondent Wood Processing Services, Inc.

Policy Revision 2 (September 2002)

Case ID No. 25928

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN104606801

Media [Statute] Municipal Solid Waste

Enf. Coordinator Judy Kluge

Violation Number 2

Rule Cite(s) Texas Water Code §§ 5.702 and 26.0291, and 30 Tex. Admin Code § 205.6

Violation Description Failed to pay outstanding fee associated to General Permit Stormwater (GPS) for FY08. Specifically, the Respondent owes \$200.00 for a GPS. .

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events [ ] Number of violation days [ ]

- daily [ ]
- monthly [ ]
- quarterly [ ]
- semiannual [ ]
- annual [ ]
- single event [ ]

Please Select One

Violation Base Penalty \$0

No administrative penalty is recommended because penalty and interest will be assessed at the next billing.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

## Economic Benefit Worksheet

**Respondent** Wood Processing Services, Inc.  
**Case ID No.** 25928  
**Reg. Ent. Reference No.** RN104606801  
**Media** Municipal Solid Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0

# Compliance History

Customer/Respondent/Owner-Operator: CN602832982 Wood Processing Services, Inc. Classification: POOR Rating: 98.33  
 Regulated Entity: RN104606801 WOOD PROCESSING SERVICES Classification: POOR Site Rating: 71.67  
 ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 100100  
 MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 100100  
 Location: 3236 CHAMBERS ST, VENUS, TX, 76084 Rating Date: 9/1/2007 Repeat Violator: NO  
 TCEQ Region: REGION 04 - DFW METROPLEX  
 Date Compliance History Prepared: March 31, 2008  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: March 31, 2003 to March 31, 2008  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Ross Fife Phone: (512)239-2541

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### 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: 06/29/2007 ADMINORDER 2005-1314-MSW-E  
 Classification: Major  
 Citation: 30 TAC Chapter 328, SubChapter A 328.5(b)  
 Description: Failure to submit a Notice of Intent to conduct recycling activities.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 330, SubChapter A 330.5(c)  
 Description: Failure to prevent the disposal of municipal solid waste at an unauthorized disposal site.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 328, SubChapter A 328.5(e)  
 Description: Failure to make available an approved fire prevention and suppression plan for the management of combustible materials.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 328, SubChapter A 328.5(d)  
 30 TAC Chapter 37, SubChapter J 37.921  
 Description: Failure to demonstrate financial assurance for closure of the facility.
- B. Any criminal convictions of the state of Texas and the federal government.  
 N/A
- C. Chronic excessive emissions events.  
 N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
 1 05/27/2005 (380497)  
 2 07/10/2007 (564305)  
 3 11/13/2007 (594818)  
 4 03/25/2008 (637973)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
 Date: 11/08/2007 (594818)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 328, SubChapter A 328.5(d)  
 30 TAC Chapter 37, SubChapter J 37.921  
 Description: Failure to demonstrate financial assurance for closure of the facility.  
 Self Report? NO Classification: Major  
 Citation: 2A TWC Chapter 7, SubChapter A 7.101  
 Rqmt Prov: ORDER OPs 2.c.ii. and 2.d.  
 Description: Failed to comply with the Ordering Provisions of Commission Order Docket No. 2005-1314-MSW-E.
- 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  
WOOD PROCESSING SERVICES,  
INC.; RN104606801**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2008-0678-MSW-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Wood Processing Services, Inc. (“WPS”) under the authority of TEX. WATER CODE chs. 5, 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and WPS, presented this agreement to the Commission.

WPS 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, WPS agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 WPS.

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

**FINDINGS OF FACT**

1. WPS owns and operates a wood recycling facility located at 3236 Chambers Street, Venus, Johnson County, Texas (the “Facility”).
2. The Facility involves the management and/or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

3. During a record review conducted on March 5, 2008, a TCEQ Central Office investigator documented that WPS failed to establish and maintain approved financial assurance for the closure of a recycling facility that stores combustible materials outdoors.
4. During a record review conducted on April 8, 2008, a TCEQ Central Office investigator documented that WPS failed to pay outstanding fees associated to General Permit Stormwater (GPS) for FY08.
5. The Executive Director recognizes that WPS implemented the following corrective measures at the Facility:
  - a. WPS submitted a exemption request from the financial assurance requirement based on 30 TEX. ADMIN. CODE § 328.5(a)(2) to TCEQ's Waste Permits Division on March 20, 2008 and received the exemption in November 2009.
  - b. WPS has paid all outstanding fees.
6. WPS received notice of the violations in paragraph 3 on or about March 16, 2008.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact Nos. 1 and 2, WPS is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, WPS failed to establish and maintain approved financial assurance for the closure of a recycling facility that stores combustible materials outdoors, in violation of 30 TEX. ADMIN. CODE §§ 328.5(d) and 37.921, and TCEQ Agreed Order Docket No. 2005-1314-MSW-E, Ordering Provision 2.c.ii. and 2.d.
3. As evidenced by Finding of Fact No. 4, WPS failed to pay outstanding fees associated to General Permit Stormwater (GPS) for FY08, in violation of TEX. WATER CODE §§ 5.702 and 26.0291 and 30 TEX. ADMIN. CODE § 205.6.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against WPS 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.

5. An administrative penalty in the amount of five thousand eight hundred sixty two dollars (\$5,862.00) 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. WPS has paid one thousand dollars (\$1,000.00) of the administrative penalty. The remaining amount of four thousand eight hundred and sixty-two dollars (\$4,862.00) of the administrative penalty shall be payable in eleven monthly payments of four hundred forty-two dollars (\$442.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be remitted not later than 30 days following the due date of the previous payment. If WPS fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of WPS to meet the payment schedule of this Agreed Order constitutes the failure by WPS to timely and satisfactorily comply with all of the terms of this Agreed Order

#### **ORDERING PROVISIONS**

1. WPS is assessed an administrative penalty in the amount of five thousand eight hundred sixty two dollars (\$5,862.00) as set forth in Conclusion of Law No. 5, above. The payment of this administrative penalty and WPS'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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Wood Processing Services, Inc.; Docket No. 2008-0678-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 provisions of this Agreed Order shall apply to and be binding upon WPS. WPS is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. 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 WPS if the

Executive Director determines that WPS has not complied with one or more of the terms or conditions in this Agreed Order.

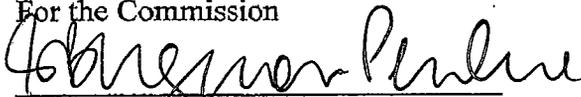
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against WPS in a civil proceeding, unless the proceeding 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.
6. 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.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of this Agreed Order to WPS, or three days after the date on which the Commission mails notice of this Agreed Order to WPS, whichever is earlier.

Wood Processing Services, Inc.  
Docket No. 2008-0678-MSW-E  
Page 5

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/14/2010

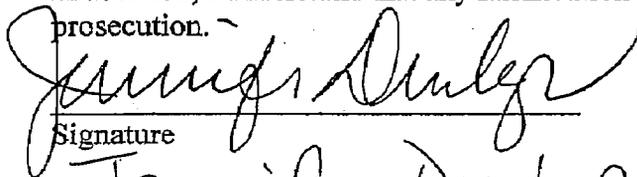
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Wood Processing Services, Inc. I represent that I am authorized to agree to the attached Agreed Order on behalf of Wood Processing Services, Inc., 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 also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

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

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



Signature

12/3/09

Date

Jennifer Dunlap

President

Title

Name (printed or typed)  
Authorized Representative  
Wood Processing Services, Inc.