

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1391-MSW-E **TCEQ ID:** RN103074415 **CASE NO.:** 38252

RESPONDENT NAME: George Henry Dearborn

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input 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: Texas Tire Transporter, 3005 Farm-to-Market Road 105 North, near Vidor, Orange County</p> <p>TYPE OF OPERATION: Unauthorized disposal site</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input 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 May 10, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. John Shelton, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2563; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. George Dearborn, Owner, Texas Tire Transporter, P.O. Box 1136, Vidor, Texas 77670 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 type="checkbox"/> Routine <input checked="" 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: June 8, 2009</p> <p>Date of NOE Relating to this Case: July 31, 2009</p> <p>Background Facts: This was an enforcement follow-up investigation.</p> <p>WASTE</p> <p>1) Failure to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 800 scrap tires and 150 cubic yards of household waste, metal drums and construction and demolition waste was disposed of at the Site [30 TEX. ADMIN. CODE § 330.15(c)].</p> <p>2) Failure to have an effective vector control program for the scrap tires stored on the ground. Specifically, the Respondent did not monitor the scrap tires stored outside for vectors [30 TEX. ADMIN. CODE §§ 328.56(d)(4) and 328.63(d)(2)].</p>	<p>Total Assessed: \$3,500</p> <p>Total Deferred: \$700 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$100 (remaining \$2,700 due in 27 monthly payments of \$100 each)</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input 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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order:</p> <p>i. Cease disposing of any additional MSW at the Site;</p> <p>ii. Implement an effective vector control program at the Site until all waste is removed and disposed of at an authorized facility;</p> <p>b. Within 30 days after the effective date of this Agreed Order, remove all MSW and dispose of the wastes at an authorized facility; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through b.</p>

Additional ID No(s): N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	17-Aug-2009	Screening	24-Aug-2009	EPA Due	
	PCW	2-Dec-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	George Henry Dearborn		
Reg. Ent. Ref. No.	RN103074415		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38252	No. of Violations	2
Docket No.	2009-1391-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Shelton
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000
		EC's Team	Enforcement Team 6

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 24-Aug-2009

Docket No. 2009-1391-MSW-E

PCW

Respondent George Henry Dearborn

Policy Revision 2 (September 2002)

Case ID No. 38252

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103074415

Media [Statute] Municipal Solid Waste

Enf. Coordinator John Shelton

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 0%

>> **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

No enhancement due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 24-Aug-2009	Docket No. 2009-1391-MSW-E	PCW															
Respondent George Henry Dearborn		<small>Policy Revision 2 (September 2002)</small>															
Case ID No. 38252		<small>PCW Revision October 30, 2009</small>															
Reg. Ent. Reference No. RN103074415																	
Media [Statute] Municipal Solid Waste																	
Enf. Coordinator John Shelton																	
Violation Number 1																	
Rule Cite(s)	30 Tex. Admin. Code § 330.15(c)																
Violation Description	Failed to prevent the unauthorized disposal of municipal solid waste, as documented during an investigation conducted on June 8, 2009. Specifically, approximately 800 scrap tires and 150 cubic yards of household waste, metal drums and construction and demolition waste were disposed of at the site.																
	Base Penalty	\$10,000															
>> Environmental, Property and Human Health Matrix																	
OR	Release	Harm															
		Major Moderate Minor															
	Actual	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">x</td> </tr> <tr> <td style="width:33%;"></td> <td style="width:33%;"></td> <td style="width:33%;"></td> </tr> </table>			x				Percent 25%								
		x															
	Potential	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%;"></td> <td style="width:33%;"></td> </tr> <tr> <td style="width:33%;"></td> <td style="width:33%;"></td> <td style="width:33%;"></td> </tr> </table>															
>>Programmatic Matrix																	
	Falsification	Major Moderate Minor															
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%;"></td> <td style="width:33%;"></td> </tr> <tr> <td style="width:33%;"></td> <td style="width:33%;"></td> <td style="width:33%;"></td> </tr> </table>							Percent 0%									
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.																
	Adjustment	\$7,500															
			\$2,500														
Violation Events																	
	Number of Violation Events	1	Number of violation days 77														
	<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:30%;">daily</td><td style="width:70%;"></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly	x	semiannual		annual		single event		Violation Base Penalty \$2,500
daily																	
weekly																	
monthly																	
quarterly	x																
semiannual																	
annual																	
single event																	
	One quarterly event is recommended based on the June 8, 2009 investigation date to the August 24, 2009 screening date.																
Good Faith Efforts to Comply																	
	0.0% Reduction		\$0														
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>																
	Extraordinary	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;"></td> <td style="width:50%;"></td> </tr> <tr> <td style="width:50%;"></td> <td style="width:50%;"></td> </tr> </table>															
	Ordinary	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;"></td> <td style="width:50%;"></td> </tr> <tr> <td style="width:50%;"></td> <td style="width:50%;"></td> </tr> </table>															
	N/A	x (mark with x)															
	Notes	The Respondent does not meet the good faith criteria for this violation.															
	Violation Subtotal		\$2,500														
Economic Benefit (EB) for this violation		Statutory Limit Test															
Estimated EB Amount	\$164	Violation Final Penalty Total	\$2,500														
		This violation Final Assessed Penalty (adjusted for limits)	\$2,500														

Economic Benefit Worksheet

Respondent George Henry Dearborn
Case ID No. 38252
Reg. Ent. Reference No. RN103074415
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$3,320	8-Jun-2008	13-May-2010	0.93	\$154	n/a	\$154
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly remove and dispose of 800 scrap tires and 150 cubic yards of waste at an authorized disposal site. Date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,320

TOTAL

\$154

<p>Screening Date 24-Aug-2009</p> <p>Respondent George Henry Dearborn</p> <p>Case ID No. 38252</p> <p>Reg. Ent. Reference No. RN103074415</p> <p>Media [Statute] Municipal Solid Waste</p> <p>Enf. Coordinator John Shelton</p> <p>Violation Number 2</p> <p>Rule Cite(s) 30 Tex. Admin. Code §§ 328.56(d)(4) and 328.63(d)(2)</p> <p>Violation Description Failed to have an effective vector control program on site for the scrap tires stored on the ground. Specifically, the Respondent did not monitor the scrap tires stored outside for vectors.</p>	<p>Docket No. 2009-1391-MSW-E</p> <p style="text-align: right;">PCW <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2009</small></p>																								
<p>Base Penalty \$10,000</p>																									
<p>>> Environmental, Property and Human Health Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="2" style="width:10%;"></td> <td rowspan="2" style="width:10%;"></td> <td colspan="3" style="text-align: center;">Harm</td> <td rowspan="2" style="width:10%;"></td> </tr> <tr> <td style="width:20%;">Major</td> <td style="width:20%;">Moderate</td> <td style="width:20%;">Minor</td> </tr> <tr> <td rowspan="2" style="text-align: center; vertical-align: middle;">OR</td> <td>Actual</td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: center; vertical-align: middle;">Percent <input type="text" value="10%"/></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td style="text-align: center;">x</td> </tr> </table>				Harm				Major	Moderate	Minor	OR	Actual				Percent <input type="text" value="10%"/>	Potential			x					
				Harm																					
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		Major	Moderate	Minor																					
					Percent <input type="text" value="0%"/>																				
<p>Violation Events</p> <p>Number of Violation Events <input type="text" value="1"/> <input type="text" value="77"/> Number of violation days</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="6" style="width:10%; text-align: center; vertical-align: middle;"><i>mark only one with an x</i></td> <td style="width:10%;">daily</td> <td style="width:10%;"></td> </tr> <tr> <td>weekly</td> <td></td> </tr> <tr> <td>monthly</td> <td></td> </tr> <tr> <td>quarterly</td> <td></td> </tr> <tr> <td>semiannual</td> <td></td> </tr> <tr> <td>annual</td> <td></td> </tr> <tr> <td>single event</td> <td style="text-align: center;">x</td> </tr> </table> <p style="text-align: right;">Violation Base Penalty \$1,000</p> <p style="text-align: center; border: 1px solid black; padding: 5px;">One single event is recommended.</p>		<i>mark only one with an x</i>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x									
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		0.0% Reduction																							
		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 for this violation.																								
<p>Economic Benefit (EB) for this violation Statutory Limit Test</p> <p>Estimated EB Amount <input type="text" value="\$23"/> Violation Final Penalty Total <input type="text" value="\$1,000"/></p> <p style="text-align: right;">This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,000"/></p>																									

Economic Benefit Worksheet

Respondent George Henry Dearborn
Case ID No. 38252
Reg. Ent. Reference No. RN103074415
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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	8-Jun-2009	13-May-2010	0.93	\$23	n/a	\$23

Notes for DELAYED costs

Estimated amount to establish a vector control program. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$23

Compliance History Report

Customer/Respondent/Owner-Operator: CN602553471 Dearborn, George Henry Classification: AVERAGE Rating:2.00

Regulated Entity: RN103074415 TEXAS TIRE TRANSPORTER Classification: HIGH Site Rating:0.00

ID Number(s):

Location: 3005 FM RD 105 N, VIDOR, TX, 77662

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: August 27, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 26, 2004 to August 26, 2009

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

Name: John Shelton Phone: (512) 239-2563

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/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: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 07/11/2006 (484919)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- 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
GEORGE HENRY DEARBORN
RN103074415**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1391-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding George Henry Dearborn ("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 appear before the Commission and together stipulate that:

1. The Respondent owns an unauthorized disposal site at 3005 Farm-to-Market Road 105 North near Vidor, Orange County, Texas (the "Site").
2. The Site involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 5, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Five Hundred Dollars (\$3,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Dollars (\$100) of the administrative penalty and Seven Hundred Dollars (\$700) is deferred contingent upon the Respondent's timely and satisfactory

compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Two Thousand Seven Hundred Dollars (\$2,700) of the administrative penalty shall be payable in 27 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on June 8, 2009. Specifically, approximately 800 scrap tires and 150 cubic yards of household waste, metal drums and construction and demolition waste was disposed of at the Site.
2. Failed to have an effective vector control program for the scrap tires stored on the ground, in violation of 30 TEX. ADMIN. CODE §§ 328.56(d)(4) and 328.63(d)(2), as documented during an investigation conducted on June 8, 2009. Specifically, the Respondent did not monitor the scrap tires stored outside for vectors.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: George Henry Dearborn, Docket No. 2009-1391-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order,
 - i. Cease disposing of any additional MSW at the Site;
 - ii. Implement an effective vector control program at the Site until all waste is removed and disposed of at an authorized facility;
 - b. Within 30 days after the effective date of this Agreed Order, remove all MSW and dispose of the wastes at an authorized facility; and
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

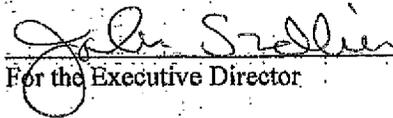
Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

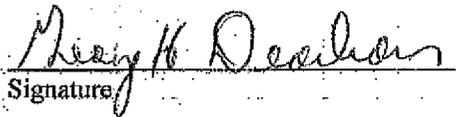
4/23/2010
Date

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

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

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

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


Signature

12/3/09
Date

George H. Dearborn
Name (Printed or typed)
Authorized Representative of
George Henry Dearborn

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.

