

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1294-MSW-E RN105772016 CASE NO. 38151
RESPONDENT NAME: RODMAN, LLC

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 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: 1409 Farm-to-Market Road 2931, Aubrey, Denton County

TYPE OF OPERATION: unauthorized mulch and composting facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: One complaint was received, alleging operation of an unauthorized recycling and compost facility. There is no record of additional pending enforcement actions regarding this facility location.

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

COMMENTS RECEIVED: The *Texas Register* comment period expired May 24, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-3400
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 128, (512) 239-6933

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

Respondent: Mr. Pete Dawson, Senior Vice President, Rodman, LLC, 6831 Ash Street, Frisco, Texas 75034

Respondent's Attorney: Mr. Stewart Shurtleff, Griffith, Nixon and Davison, 5420 LBJ Freeway, Suite 900, Dallas, Texas 75240

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: April 7, 2009</p> <p>Date of Investigation Relating to this Case: April 8, 2009 (complaint investigation) June 8, 2009 (follow-up)</p> <p>Date of NOE Relating to this Case: July 23, 2009</p> <p>Background Facts: The EDPRP was filed on January 11, 2010, and mailed to Respondent via first class mail, postage pre-paid, and via certified mail, return receipt requested. According to the return receipt "green card," Respondent received the EDPRP on January 13, 2010. Settlement conferences were held with Respondent's attorney on January 19, February 18, March 2, and April 13, 2010. Respondent failed to file an answer requesting a hearing and failed to sign an agreed order.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>MSW: Failed to prevent the unauthorized storage and disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p>Total Assessed: \$15,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$15,000</p> <p>Respondent has not paid the administrative penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: None – the RN was not in existence on September 1, 2008.</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease accepting MSW at the Facility. 2. Within 15 days, submit written certification to demonstrate compliance with Ordering Provision No. 1. 3. Within 60 days, remove all MSW from the Facility and dispose of it at an authorized facility; or 4. In lieu of Ordering Provision No. 3, within 60 days: <ol style="list-style-type: none"> a. Submit a notice of intent to operate a recycling facility; b. Develop and submit a fire prevention plan to local fire officials; c. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility; d. Submit documentation demonstrating that at least 50% (by weight or volume) of all material accumulated at the Facility for recycling is recycled or transferred to a different site for recycling; and e. Maintain a setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feed stock or finished product. 5. Within 75 days, submit written certification to demonstrate compliance with either Ordering Provision No. 3 or Ordering Provision Nos. 4.a. through 4.e., as applicable.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	10-Aug-2009			
	PCW	11-Dec-2009	Screening	13-Aug-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Rodman, LLC				
Reg. Ent. Ref. No.	RN105772016				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	38151	No. of Violations	1		
Docket No.	2009-1294-MSW-E	Order Type	Findings		
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Clinton Sims		
		EC's Team	Enforcement Team 6		
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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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.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustments due to compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$8,038	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$183,944	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$15,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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.

PAYABLE PENALTY	\$15,000
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Screening Date 13-Aug-2009

Docket No. 2009-1294-MSW-E

PCW

Respondent Rodman, LLC

Policy Revision 2 (September 2002)

Case ID No. 38151

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105772016

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

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 adjustments due to compliance history.

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

Screening Date 13-Aug-2009 **Docket No.** 2009-1294-MSW-E **PCW**
Respondent Rodman, LLC *Policy Revision 2 (September 2002)*
Case ID No. 38151 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105772016
Media [Statute] Municipal Solid Waste
Enf. Coordinator Clinton Sims

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input checked="" type="checkbox"/>			
	Potential				
				Percent <input type="text" value="50%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Rodman, LLC
Case ID No. 38151
Reg. Ent. Reference No. RN105772016
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				0.00	\$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	\$183,944	8-Jun-2009	23-Apr-2010	0.87	\$8,038	n/a	\$8,038
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the municipal solid waste. The Date Required is the investigation date and the Final Date is the expected 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

\$183,944

TOTAL

\$8,038

Compliance History Report

Customer/Respondent/Owner-Operator: CN603310095 Rodman, LLC Classification: AVERAGE Rating: 2.97
Regulated Entity: RN105772016 RODMAN LLC MULCH YARD Classification: Site Rating:
ID Number(s):
Location: 1409 FM 2931, AUBREY, TX, 76227
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: August 13, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 13, 2004 to August 13, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Clinton Sims Phone: 239 - 6933

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

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.)
N/A
 - 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
RODMAN, LLC;
RN105772016**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2009-1294-MSW-E**

At its _____ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Rodman, LLC (“Rodman”).

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

FINDINGS OF FACT

1. Rodman owns and operates an unauthorized mulch and composting facility located at 1409 Farm-to-Market Road 2931, in Aubrey, Denton County, Texas (the “Facility”).
2. The Facility involves the management and/or disposal of municipal solid waste (“MSW”) as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on June 8, 2009, a TCEQ Dallas/Ft. Worth Regional Office investigator documented that Rodman failed to prevent the unauthorized storage and disposal of MSW. Specifically, approximately 38,100 cubic yards of combustible materials (mulch, compost, brush and tree trimmings) were stored on the ground at the Facility.
4. Rodman received notice of the violation on or about July 28, 2009.
5. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Rodman, LLC” (the “EDPRP”) in the TCEQ Chief Clerk’s office on January 11, 2010.
6. By letter dated January 11, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Rodman with notice of the

EDPRP. According to the return receipt “green card,” Rodman received notice of the EDPRP on January 13, 2010, as evidenced by the signature on the card.

7. More than 20 days have elapsed since Rodman received notice of the EDPRP, provided by the Executive Director. Rodman failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Rodman is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Rodman failed to prevent the unauthorized storage and disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Rodman with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Rodman failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Rodman and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Rodman 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.
6. An administrative penalty in the amount of fifteen thousand dollars (\$15,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Rodman is assessed an administrative penalty in the amount of fifteen thousand dollars (\$15,000.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Rodman's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Rodman LLC; Docket No. 2009-1294-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. Rodman shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Rodman shall cease accepting MSW at the Facility.
 - b. Within 15 days after the effective date of this Order, Rodman shall submit written certification as described in Ordering Provision No. 2.e., below, to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 60 days after the effective date of this Order, Rodman shall remove all MSW from the Facility and dispose of it at an authorized facility; or
 - d. In lieu of Ordering Provision No. 2.c., above, Rodman may, within 60 days after the effective date of this Order:
 - i. Submit a notice of intent to operate a recycling facility, in accordance with 30 TEX. ADMIN. CODE § 328.5(b);
 - ii. Develop and submit a fire prevention plan to local fire officials, in accordance with 30 TEX. ADMIN. CODE § 328.(b)(1);

- iii. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.5(f)(3) to:

Financial Assurance Team, MC 184
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- iv. Submit documentation demonstrating that at least 50% (by weight or volume) of all material accumulated at the Facility for recycling is recycled or transferred to a different site for recycling, in accordance with 30 TEX. ADMIN. CODE §§ 328.4(b) and 328.5(f); and
- v. Maintain a setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feed stock or finished product, in accordance with 30 TEX. ADMIN. CODE § 328.8(b)(1).

- e. Within 75 days after the effective date of this Order, Rodman shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with either Ordering Provision No. 2.c. or Ordering Provision Nos. 2.d.i. through 2.d.v., as applicable. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

Rodman shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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
Texas Commission on Environmental Quality
Dallas/Ft. Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Rodman. Rodman is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Rodman fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Rodman's failure to comply is not a violation of this Order. Rodman shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Rodman shall notify the Executive Director within seven days after Rodman becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Rodman shall be made in writing to the Executive Director. Extensions are not effective until Rodman receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Rodman if the Executive Director determines that Rodman has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

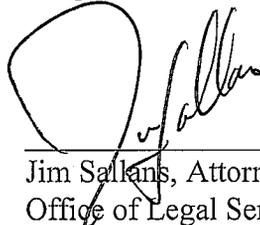
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Rodman, LLC” (the “EDPRP”) was filed with the Office of the Chief Clerk on January 11, 2010.

The EDPRP was mailed to Rodman at its last known address on January 11, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Rodman received notice of the EDPRP on January 13, 2010, as evidenced by the signature on the card.

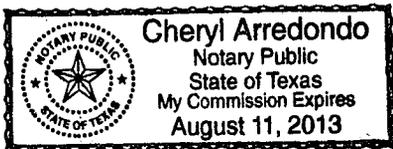
More than 20 days have elapsed since Rodman received notice of the EDPRP. Rodman failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.



Jim Sallans, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 8th day of April, A.D., 2010.



Cheryl Arredondo
Notary Signature