

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO. 2007-0715-MSW-E TCEQ ID RN104872528 CASE NO. 33340**

**RESPONDENT NAME: J.W. MCQUERRY DBA MCQUERRY PROPERTIES, AND HIS HEIR, DANNA TRAMEL DBA MCQUERRY PROPERTIES**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	

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

**SITE WHERE VIOLATION(S) OCCURRED:** 2425 and 2355 Decatur Avenue, Fort Worth, Tarrant County

**TYPE OF OPERATION:** Used oil and used oil filter processing, generation, collection, and storage facility

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** One complaint was received, alleging that sludge boxes that should go to a landfill were being stored at the facility. A default order against the operator of this facility was approved at the April 14, 2010 agenda. 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. The following governmental entities have expressed an interest in this matter: City of Fort Worth Building Code Enforcement and Compliance, City of Fort Worth Fire Department - Fire Prevention Bureau, City of Fort Worth Police Department - Secondary Metal Recyclers Compliance Office, City of Fort Worth Environmental Spill Response Unit, and City of Fort Worth Governmental Relations.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired June 21, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Anna M. Treadwell, Litigation Division, MC 175, (512) 239-0107  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Mr. Michael Meyer, Waste Enforcement Section, MC 128, (512) 239-4492

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

**Respondent:** Ms. Danna Tramel, McQuerry Properties, 4817 Winthrop Avenue E, Fort Worth, Texas 76116-8228

**Respondent's Attorney:** Ms. Rebecca Davis, Office of Rebecca Davis, PLLC, 116 Sante Fe Drive, Weatherford, Texas 76086

<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 checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> October 19, 2006</p> <p><b>Date of Investigation Relating to this Case:</b> September 5, 2006</p> <p><b>Date of NOE Relating to this Case:</b> February 23, 2007</p> <p><b>Background Facts:</b> This case involves two respondents (Vega Waste and McQuerry Properties) and was referred to the Litigation Division on June 25, 2007. The EDRP was filed on November 5, 2007, and re-filed for service on November 21, 2007, and March 20, 2008. Both Respondents filed answers and the case was referred to SOAH. The preliminary hearing was waived and the evidentiary hearing was set for January 29, 2009. Counsel for Respondent Vega Waste withdrew from the case and the evidentiary hearing was continued several times. An EDFARP was filed on November 24, 2009. The ALJ convened the evidentiary hearing on December 1, 2009. Respondent Vega Waste failed to appear. Respondent McQuerry Properties agreed to settle and the agreed order was signed at the evidentiary hearing (December 1, 2009).</p> <p><b>Current Compliance Status:</b> Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p><b>MSW:</b></p> <ol style="list-style-type: none"> <li>Failed to respond to the release of used oil upon detection and to keep containers storing used oil in good condition and to prevent them from leaking [30 TEX. ADMIN. CODE § 324.12 and 40 C.F.R. § 279.54(b) and (g)].</li> <li>Failed to have a secondary containment system for a facility that processes used oil [30 TEX. ADMIN. CODE § 324.12 and 40 C.F.R. § 279.54(c) and (e)].</li> <li>Failed to prepare an analysis plan [30 TEX. ADMIN. CODE § 324.12(3) and 40 C.F.R. § 279.55(a)].</li> </ol>	<p><b>Total Assessed:</b> \$10,250</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> \$310/\$9,940</p> <p>Respondent paid \$310 of the administrative penalty. The remaining amount of \$9,940 shall be payable in 35 monthly payments of \$284 each.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input 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>Ordering Provisions:</b></p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately: <ol style="list-style-type: none"> <li>Cease all used oil operations;</li> <li>Remove and properly dispose of the used oil and used oil containers located at the Facility; and</li> <li>Conduct sampling of any soil surrounding areas where the spillage of used oil occurred and remove and properly dispose of any materials that show characteristics of hazardous waste.</li> </ol> </li> <li>Within 30 days: <ol style="list-style-type: none"> <li>Install and maintain a secondary containment unit for containers and above-ground storage tanks of used oil at the Facility; and</li> <li>Develop and maintain a written analysis plan for sampling and analyzing, keeping records, and complying with analytical requirements for documenting that used oil at the Facility is not listed hazardous and/or the used oil fuel specification has been met.</li> </ol> </li> <li>Within 90 days submit written certification to demonstrate compliance with Ordering Provision Nos. 1 and 2.</li> </ol> <p>If Respondent continues to manage used oil or used oil filters at the Facility, in lieu of Ordering Provision Nos. 1 and 2, Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately: <ol style="list-style-type: none"> <li>Register used oil activities at the Facility through the Commission using EPA form 8700-12;</li> <li>Ensure all containers and above-ground storage tanks used to store used oil at the Facility are clearly marked or labeled with the words "Used Oil";</li> <li>Begin maintaining all records for used oil shipments accepted at and transported from the Facility and keep a written operating record at the Facility; and</li> <li>Begin maintaining copies of the bill of lading or each shipment of used oil filters to and from the Facility.</li> </ol> </li> </ol>

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
		<p>5. Within 30 days:</p> <ul style="list-style-type: none"> <li>a. Begin maintaining required safety equipment and implement procedures to ensure aisles are unobstructed and allow for the movement of personnel and fire control equipment. Provide documentation showing the arrangements for the following local authorities: arrangements to familiarize police, fire departments, and emergency response teams with the layout of the Facility; agreements with State emergency response teams; and arrangements to familiarize local hospitals with properties of used oil handled at the Facility. Also, submit and maintain a contingency plan to be used at the Facility;</li> <li>b. Replace or repair all leaking, bent, and dented containers used to store used oil at the Facility and implement procedures to ensure that all containers at the Facility storing used oil are kept in good condition and prevented from leaking;</li> <li>c. Obtain a TCEQ Registration for the storage of used oil filters at the Facility or remove and properly dispose of the approximately 300 drums at the Facility containing used oil filters;</li> <li>d. Conduct sampling of any soil surrounding areas where the spillage of used oil occurred and remove and properly dispose of any materials that show characteristics of hazardous waste;</li> <li>e. Install and maintain a secondary containment unit for containers and above-ground storage tanks of used oil at the Facility;</li> <li>f. Develop and maintain a written analysis plan for sampling and analyzing, keeping records, and complying with analytical requirements for documenting that used oil is not listed hazardous and/or the used oil fuel specification has been met;</li> <li>g. Demonstrate Financial Responsibility; and</li> <li>h. Develop and maintain a spill prevention, control, and countermeasures plan at the Facility.</li> </ul> <p>6. Within 90 days, submit written certification to demonstrate compliance with Ordering Provision Nos. 4 and 5.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	5-Mar-2007	<b>Screening</b>	27-Apr-2007	<b>EPA Due</b>	
	<b>PCW</b>	20-Nov-2009				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	JW McQuerry dba McQuerry Properties and Danna Tramel dba McQuerry Properties				
<b>Reg. Ent. Ref. No.</b>	RN104872528				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	33340	<b>No. of Violations</b>	3
<b>Docket No.</b>	2007-0715-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Used Oil	<b>Enf. Coordinator</b>	Michael Meyer
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$2,500

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$10,250**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: The respondent has no record of any previous NOV's or Orders at this site in the past five years.

**Culpability** **No** **0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **0%** Reduction **Subtotal 5** **\$0**

	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.

**Total EB Amounts** **\$1,644** **0% Enhancement\*** **Subtotal 6** **\$0**  
**Approx. Cost of Compliance** **\$8,500** **\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$10,250**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

**Final Penalty Amount** **\$10,250**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$10,250**

**DEFERRAL** **Reduction** **Adjustment** **\$0**

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

Notes

No deferral due to non-settlement.

**PAYABLE PENALTY** **\$10,250**

**Screening Date** 27-Apr-2007

**Docket No.** 2007-0715-MSW-E

**PCW**

**Respondent** JW McQuerry dba McQuerry Properties and Danna Trarr

Policy Revision 2 (September 2002)

**Case ID No.** 33340

PCW Revision April 26, 2007

**Reg. Ent. Reference No.** RN104872528

**Media [Statute]** Used Oil

**Enf. Coordinator** Michael Meyer

### 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> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <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)** 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**

The respondent has no record of any previous NOV's or Orders at this site in the past five years.

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

Screening Date 27-Apr-2007

Docket No. 2007-0715-MSW-E

PCW

Respondent JW McQuerry dba McQuerry Properties and Danna Tramel dba N

Policy Revision 2 (September 2002)

Case ID No. 33340

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN104872528

Media [Statute] Used Oil

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 324.12 and 40 Code of Federal Regulations § 279.54(b) and (g)

Violation Description Failed to respond to the release of used oil upon detection and to keep containers storing used oil in good condition and to prevent them from leaking, as documented during an investigation conducted on September 5, 2006. Specifically, at the time of the investigation the spillage of used oil was observed inside and outside the facility as well as the surrounding concrete drainage way but no attempt was made to stop, clean up, and contain the release or to repair any leaking containers, including bent and dented containers with spilled oil beneath them.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health or the environment has been 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 \$1,875

\$625

Violation Events

Number of Violation Events 8 234 Number of violation days

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

Violation Base Penalty \$5,000

Eight monthly events are recommended from the investigation date of September 5, 2006, to the screening date of April 27, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$573

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

## Economic Benefit Worksheet

**Respondent** JW McQuerry dba McQuerry Properties and Danna Tramel dba McQuerry Properties  
**Case ID No.** 33340  
**Reg. Ent. Reference No.** RN104872528  
**Media** Used Oil  
**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)	\$3,000	5-Sep-2006	30-Jun-2010	3.8	\$573	n/a	\$573

Notes for DELAYED costs

Estimated cost to respond properly to used oil spills and ensure used oil is stored in containers in good condition that will prevent leaking from the investigation date to the estimated date of compliance..

### 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

\$3,000

**TOTAL**

\$573

Screening Date 27-Apr-2007

Docket No. 2007-0715-MSW-E

PCW

Respondent JW McQuerry dba McQuerry Properties and Danna Tramel dba M

Policy Revision 2 (September 2002)

Case ID No. 33340

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN104872528

Media [Statute] Used Oil

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 324.12 and 40 Code of Federal Regulations § 279.54(c) and (e)

Violation Description Failed to have a secondary containment systems for a facility that processes used oil, as documented during an investigation conducted on September 5, 2006. Specifically, at the time of the investigation no secondary containment system was present at the facility

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR	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 pollutants which would exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$1,875

\$625

Violation Events

Number of Violation Events 8 234 Number of violation days

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Eight monthly events are recommended from the investigation date of September 5, 2006, to the screening date of April 27, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$976

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

## Economic Benefit Worksheet

**Respondent** JW McQuerry dba McQuerry Properties and Danna Tramel dba McQuerry Properties  
**Case ID No.** 33340  
**Reg. Ent. Reference No.** RN104872528  
**Media** Used Oil  
**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)	\$5,000	5-Sep-2006	31-Jul-2010	3.9	\$976	n/a	\$976

Notes for DELAYED costs

Estimated cost to provide a secondary containment system for the facility from the investigation date to the estimated date of compliance..

### 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

\$5,000

**TOTAL**

\$976

Screening Date 27-Apr-2007

Docket No. 2007-0715-MSW-E

PCW

Respondent JW McQuerry dba McQuerry Properties and Danna Tramel dba M

Policy Revision 2 (September 2002)

Case ID No. 33340

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN104872528

Media [Statute] Used Oil

Enf. Coordinator Michael Meyer

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 324.12(3) and 40 Code of Federal Regulations § 279.55(a)

Violation Description Failed to prepare an analysis plan, as documented during an investigation conducted on September 5, 2006. Specifically, at the time of the investigation the facility did not develop an analysis plan to be used when sampling and analyzing, keeping records, and complying with analytical requirements for documenting that used oil is not listed hazardous and/or the used oil fuel specification has been met

Base Penalty \$2,500

>> 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

Matrix Notes 100 percent of the rule requirement was not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1 234 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$95

Violation Final Penalty Total \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

## Economic Benefit Worksheet

**Respondent** JW McQuerry dba McQuerry Properties and Danna Tramel dba McQuerry Properties  
**Case ID No.** 33340  
**Reg. Ent. Reference No.** RN104872528  
**Media** Used Oil  
**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				0.0	\$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)	\$500	5-Sep-2006	30-Jun-2010	3.8	\$95	n/a	\$95

Notes for DELAYED costs

Estimated cost to prepare an analysis plan for the facility from the investigation date to the estimated date of compliance.

### 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

\$500

**TOTAL**

\$95

## Compliance History

Customer/Respondent/Owner-Operator:	CN601235930	McQuerry J. W. dba McQuerry Properties	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN104872528	VEGA WASTE DISPOSAL SERVICES INC	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED STORMWATER STORMWATER	ID NUMBER		455040162
		PERMIT		TXR05T122
		PERMIT		TXR05V467
Location:	2425 DECATUR AVE, FORT WORTH, TX, 76106		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	August 21, 2007			
Agency Decision Requiring Compliance	Enforcement			
Compliance Period:	August 21, 2002 to August 21, 2007			

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

Name:	<u>Colin Barth</u>	Phone:	<u>512 239 0086</u>
-------	--------------------	--------	---------------------

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance    | 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 judgments, 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 02/26/2007 (454770)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 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

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603683004 Danna Tramel dba McQuerry Properties Classification: AVERAGE Rating: 3.01

Regulated Entity: RN104872528 VEGA WASTE DISPOSAL SERVICES Classification: AVERAGE Site Rating: 3.01 BY DEFAULT

ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455040162  
 STORMWATER PERMIT TXR05T122  
 STORMWATER PERMIT TXR05V467

Location: 2425 DECATUR AVE, FORT WORTH, TX, 76106

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: June 11, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 21, 2002 to August 21, 2007

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

Name: Michael Meyer Phone: 239 - 4492

## 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:09/01/2006 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 02/26/2007 (454770)
- 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



<p><b>IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING J.W. MCQUERRY DBA MCQUERRY PROPERTIES, AND HIS HEIR, DANNA TRAMEL DBA MCQUERRY PROPERTIES; RN104872528</b></p>	<p>§ § § § § § § §</p>	<p><b>BEFORE THE    TEXAS COMMISSION ON   ENVIRONMENTAL QUALITY</b></p>
--	--	---

**AGREED ORDER  
DOCKET NO. 2007-0715-MSW-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding J.W. McQuerry dba McQuerry Properties (“Mr. McQuerry”), and His Heir, Danna Tramel dba McQuerry Properties (“Ms. Tramel”)(collectively referred to as “the McQuerrys”) under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 371. The Executive Director of the TCEQ, represented by the Litigation Division, and the McQuerrys, represented by Ms. Rebecca Davis of the Law Office of Rebecca Davis, P.L.L.C., appear before the Commission and together stipulate that:

1. Mr. McQuerry owned a used oil and used oil filter processing, generation, collection, and storage facility located at 2425 and 2355 Decatur Avenue, Fort Worth, Tarrant County, Texas (the “Facility”). The Facility involves the management and/or the disposal of used oil and used oil filters as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. Mr. McQuerry died on November 24, 2007, nineteen days after this law suit was initiated.
3. Ms. Tramel, Mr. McQuerry’s heir, is the general partner of McQuerry Properties, which currently owns the Facility.
4. The Commission and Ms. Tramel agree that as Mr. McQuerry’s heir and the general partner of McQuerry Properties she is subject to and bound by this Agreed Order pursuant to Rule 150 of the Texas Rules of Civil Procedure.

5. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 371 and TCEQ rules.
6. The Commission and the McQuerrys agree that the Commission has jurisdiction to enter this Agreed Order, and that the McQuerrys are subject to the Commission's jurisdiction.
7. The Commission and Danna Tramel agree that because she is the heir of J.W. McQuerry and the general partner of McQuerry Properties, she is subject to and bound by this Agreed Order pursuant to Rule 150 of the Texas Rules of Civil Procedure.
8. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the McQuerrys of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
9. An administrative penalty in the amount of ten thousand two hundred fifty dollars (\$10,250.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The McQuerrys paid three hundred ten dollars (\$310.00) of the administrative penalty. The remaining amount of nine thousand nine hundred forty dollars (\$9,940.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred eighty-four dollars (\$284.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If the McQuerrys fail 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 McQuerrys' failures to meet the payment schedule of this Agreed Order constitutes the failure by the McQuerrys to timely and satisfactorily comply with all of the terms of this Agreed Order.
10. 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.
11. The Executive Director of the TCEQ and the McQuerrys agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
12. 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 McQuerrys have not complied with one or more of the terms or conditions in this Agreed Order.

13. 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.
14. 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**

1. During an investigation conducted on September 5, 2006, a TCEQ Dallas / Fort Worth Regional Office investigator documented that the McQuerrys violated:
  - a. 30 TEX. ADMIN. CODE § 324.12 and 40 CODE OF FEDERAL REGULATIONS § 279.54(b) and (g) by failing to respond to the release of used oil upon detection, to keep containers storing used oil in good condition, and to prevent them from leaking. Specifically, the spillage of used oil was observed inside and outside the Facility as well as the surrounding concrete drainage way, and no attempt to stop, clean up, and contain the release or to repair any leaking containers, including bent and dented containers with spilled oil beneath them;
  - b. 30 TEX. ADMIN. CODE § 324.12 and 40 CODE OF FEDERAL REGULATIONS § 279.54(c) and (e) by failing to have a secondary containment system for a facility that processes used oil. Specifically, a secondary containment system was not present at the Facility; and
  - c. 30 TEX. ADMIN. CODE § 324.12(3) and 40 CODE OF FEDERAL REGULATIONS § 279.55(a) by failing to prepare an analysis plan. Specifically, the Facility did not have an analysis plan to be used when sampling and analyzing, keeping records, and complying with analytical requirements for documenting that used oil is not listed hazardous and/or the used oil fuel specification has been met.
2. The McQuerrys received notice of the violations on or about February 28, 2007.

## **III. DENIALS**

The McQuerrys generally deny each allegation in Section II (“Allegations”).

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the McQuerrys pay an administrative penalty as set forth in Section I, Paragraph 9, above. The payment of this administrative penalty and the McQuerrys' 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 considering or requiring corrective action or penalties for violations which 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: J.W. McQuerry dba McQuerry Properties, and His Heir, Danna Tramel dba McQuerry Properties, Docket No. 2007-0715-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 McQuerrys shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, the McQuerrys shall:
    - i. Cease all used oil operations;
    - ii. Remove and properly dispose of the used oil and used oil containers located at the Facility in accordance with TCEQ rules; and
    - iii. Conduct sampling of any soil surrounding areas where the spillage of used oil occurred and remove and properly dispose of any materials that show characteristics of hazardous waste, in accordance with 30 TEX. ADMIN. CODE § 324.12 and 40 CODE OF FEDERAL REGULATIONS § 279.54(g).
  - b. Within 30 days of the effective date of this Agreed Order, the McQuerrys shall:
    - i. Install and maintain a secondary containment unit for containers and above ground storage tanks of used oil at the Facility, in accordance with 30 TEX. ADMIN. CODE § 324.12 and 40 CODE OF FEDERAL REGULATIONS § 279.54(c) and (e); and

- ii. Develop and maintain a written analysis plan for sampling and analyzing, keeping records, and complying with analytical requirements for documenting that used oil at the Facility is not listed hazardous and/or the used oil fuel specification has been met, in accordance with 30 TEX. ADMIN. CODE § 324.12(3) and 40 CODE OF FEDERAL REGULATIONS § 279.55(a).
  
- c. Within 90 days after the effective date of this Agreed Order, the McQuerrys shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.ii. 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.”

The McQuerrys shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.ii. to:

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

and

Sam Barrett, Waste Section Manager  
Dallas-Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

3. If the McQuerrys continue to manage used oil or used oil filters at the Facility, then the McQuerrys, in lieu of Ordering Provision No. 2, shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, the McQuerrys shall:
    - i. Register used oil activities at the Facility through the Commission using EPA form 8700-12, in accordance with 30 TEX. ADMIN. CODE § 324.12(2) and 40 CODE OF FEDERAL REGULATIONS § 279.51(a);
    - ii. Ensure all containers and aboveground storage tanks used to store used oil at the Facility are clearly marked or labeled with the words “Used Oil”, in accordance with 30 TEX. ADMIN. CODE §§ 324.12 and 324.6 and 40 CODE OF FEDERAL REGULATIONS §§ 279.22(c)(1) and 279.54(f);
    - iii. Begin maintaining all records for used oil shipments accepted at and transported from the Facility and keep a written operating record at the Facility, in accordance with 30 TEX. ADMIN. CODE § 324.12 and 40 CODE OF FEDERAL REGULATIONS §§ 279.56(a) and 279.57(a); and
    - iv. Begin maintaining copies of the bill of lading for each shipment of used oil filters to and from the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.25(b).
  - b. Within 30 days after the effective date of this Agreed Order, the McQuerrys shall:
    - i. Begin maintaining required safety equipment and implement procedures to ensure aisles are unobstructed and allow for the movement of personnel and fire control equipment. Provide documentation showing the arrangements for the following local authorities: arrangements to familiarize police, fire departments, and emergency response teams with the layout of the Facility; agreements with State emergency response teams; and arrangements to familiarize local hospitals with properties of used oil handled at the Facility. Also, submit and maintain a contingency plan to be used at the Facility, in accordance with 30 TEX. ADMIN. CODE § 324.12 and 40 CODE OF FEDERAL REGULATIONS § 279.52(a)(2), (a)(5), (a)(6), and (b);
    - ii. Replace or repair all leaking, bent, and dented containers used to store used oil at the Facility and implement procedures to ensure that all containers at the Facility storing used oil are kept in good condition and prevented from

- leaking, in accordance with 30 TEX. ADMIN. CODE § 324.12 and 40 CODE OF FEDERAL REGULATIONS § 279.54(b);
- iii. Obtain a TCEQ Registration for the storage of used oil filters at the Facility or remove and properly dispose of the approximately 300 drums at the Facility containing used oil filters, in accordance with 30 TEX. ADMIN. CODE § 328.24(a) or 30 TEX. ADMIN. CODE § 328.26(a), as applicable;
  - iv. Conduct sampling of any soil surrounding areas where the spillage of used oil occurred and remove and properly dispose of any materials that show characteristics of hazardous waste, in accordance with 30 TEX. ADMIN. CODE § 324.12 and 40 CODE OF FEDERAL REGULATIONS § 279.54(g).
  - v. Install and maintain a secondary containment unit for containers and above ground storage tanks of used oil at the Facility, in accordance with 30 TEX. ADMIN. CODE § 324.12 and 40 CODE OF FEDERAL REGULATIONS § 279.54(c) and (e);
  - vi. Develop and maintain a written analysis plan for sampling and analyzing, keeping records, and complying with analytical requirements for documenting that used oil at the Facility is not listed hazardous and/or the used oil fuel specification has been met, in accordance with 30 TEX. ADMIN. CODE § 324.12(3) and 40 CODE OF FEDERAL REGULATIONS § 279.55(a);
  - vii. Demonstrate Financial Responsibility, in accordance with 30 TEX. ADMIN. CODE § 328.24(e); and
  - viii. Develop and maintain a spill prevention, control and countermeasures plan at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 324.12, 324.6, and 328.28 and 40 CODE OF FEDERAL REGULATIONS §§ 279.22 and 279.54; and
- c. Within 90 days after the effective date of this Agreed Order, the McQuerrys shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.b.viii. 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.”

The McQuerrys shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 3.a.i through 3.b.viii. to:

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

and

Sam Barrett, Waste Section Manager  
Dallas-Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

Don Hawkins  
Secondary Metal Recyclers Compliance Office  
City of Fort Worth Police Department  
3457 Decatur Avenue  
Fort Worth, Texas 76106-4538

Brandon Bennett  
City of Fort Worth Code Enforcement  
7451 North Beach  
Fort Worth, Texas 76137-1504

James Johns, Fire Marshal  
Fire Prevention Bureau  
City of Fort Worth Fire Department  
1000 Throckmorton Street  
Fort Worth, Texas 76102-6312

Al Godwin, Assistant Director  
Development Department  
City of Fort Worth Building Compliance Office  
1000 Throckmorton Street  
Fort Worth, Texas 76102-6312

Jimmy McClurg, Supervisor  
Environmental Spill Response Unit  
City of Fort Worth Department of Environmental Management  
1000 Throckmorton Street  
Fort Worth, Texas 76102-6312

Mark Worley, Supervisor  
City of Fort Worth Code Compliance Department  
715 Texas Street  
Fort Worth, Texas 76102

Thomas Patterson, Jr., Attorney  
City of Fort Worth Governmental Relations  
1000 Throckmorton Street  
Fort Worth, Texas 76102-6312

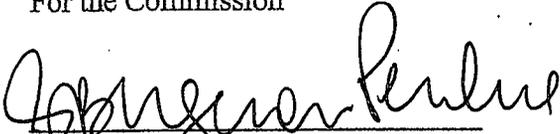
4. The provisions of this Agreed Order shall apply to and be binding upon the McQuerrys. The McQuerrys are ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the McQuerrys fail to comply with any 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 McQuerrys' failures to comply is not a violation of this Agreed Order. The McQuerrys shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The McQuerrys shall notify the Executive Director within seven days after the McQuerrys become 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 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 McQuerrys shall be made in writing to the Executive Director. Extensions are not effective until the McQuerrys receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the McQuerrys 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to the McQuerrys, or three days after the date on which the Commission mails notice of this Agreed Order to the McQuerrys, 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

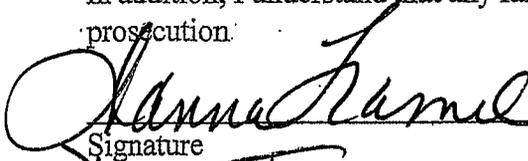
7/22/2010  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 me;
- 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

12/1/09  
Date

DANNA TRAMMEL  
Name (Printed or typed)

GENERAL PARTNER  
Title

Authorized representative of

J.W. McQuerry dba McQuerry Properties, and His Heir, Danna Trammel dba McQuerry Properties