Executive Summary – Enforcement Matter – Case No. 40188
CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill
RN103053062
Docket No. 2010-1313-MSW-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
MSW
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
Casco Hauling and Excavation Landfill, 1306 East Anderson Road, Houston, Harris County
Type of Operation:
Municipal solid waste ("MSW") Type IV landfill
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: July 29, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $10,500
Amount Deferred for Expedited Settlement: $2,100
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $2,100
Total Due to General Revenue: $6,300
Payment Plan: 3 quarterly payments of $2,100 each
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - Average
Site/RN - Average
Major Source: Yes
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 40188
CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill
RN103053062
Docket No. 2010-1313-MSW-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: May 4, 2010
Date(s) of NOE(s): July 22, 2010

Violation Information

1. Failed to prevent the unauthorized disposal of MSW. Specifically, the Respondent allowed approximately 15 scrap vehicles (approximately 155 cubic yards) to be abandoned at the Site [30 TEX. ADMIN. CODE § 330.15(c)].

2. Failed to submit an explanation for the apparent increase in arsenic and provide a map depicting ground water flow direction to the agency [30 TEX. ADMIN. CODE § 330.417(b)(5)(B)].

3. Failed to submit a permit modification to monitor barium, arsenic, and lead for all wells on-site [30 TEX. ADMIN. CODE § 330.417(b)(6)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Remove the scrap vehicles from the Site;

ii. Submit a permit modification for the additional groundwater monitoring parameters and an explanation for the apparent increase in arsenic.

b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 40188
CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill
RN103053062
Docket No. 2010-1313-MSW-E

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Theresa Hagood, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2540; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Richard A. Martini, President, CASCO HAULING, & EXCAVATING CO., 1306 East Anderson Road, Houston, Texas 77047
Respondent's Attorney: Derek Seal, Winstead Attorneys, 401 Congress Avenue, Suite 2100, Austin, Texas 78701

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	26-Jul-2010				
PCW	11-Aug-2010	Screening	9-Aug-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill		
Reg. Ent. Ref. No.	RN103053062		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	40188	No. of Violations	2
Docket No.	2010-1313-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Theresa Hagood
		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* **$10,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement *Subtotals 2, 3, & 7* **$500**

Notes: Enhancement for one NOV with same/similar violations.

Culpability No **0.0%** Enhancement *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **$0**

Economic Benefit **0.0%** Enhancement* *Subtotal 6* **$0**

Total EB Amounts $119
Approx. Cost of Compliance $1,975

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$10,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$10,500**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$10,500**

DEFERRAL **20.0%** Reduction *Adjustment* **-$2,100**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$8,400**

Screening Date 9-Aug-2010 **Docket No.** 2010-1313-MSW-E **PCW**

Respondent CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill *Policy Revision 2 (September 2002)*

Case ID No. 40188 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN103053062

Media [Statute] Municipal Solid Waste

Enf. Coordinator Theresa Hagood

Compliance History Worksheet

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

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	1	5%
	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 9-Aug-2010 **Docket No.** 2010-1313-MSW-E **PCW**

Respondent CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill *Policy Revision 2 (September 2002)*

Case ID No. 40188 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN103053062

Media [Statute] Municipal Solid Waste

Enf. Coordinator Theresa Hagood

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 ("MSW"). Specifically, the Respondent allowed approximately 15 scrap vehicles (approximately 155 cubic yards) to be abandoned at the Site.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 2 — 97 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $5,000

Two quarterly events are recommended from the May 4, 2010 investigation date to the August 9, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction $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 for this violation.

Violation Subtotal $5,000

Economic Benefit (EB) for this violation

Estimated EB Amount $81

Statutory Limit Test

Violation Final Penalty Total $5,250

This violation Final Assessed Penalty (adjusted for limits) $5,250

Economic Benefit Worksheet

Respondent CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill
Case ID No. 40188
Reg. Ent. Reference No. RN103053062
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	$1,825	4-May-2010	22-Mar-2011	0.88	$81	n/a	$81
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 dispose of the MSW at an authorized facility. Date Required is the investigation date. 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 $1,825

TOTAL $81

Screening Date 9-Aug-2010 **Docket No.** 2010-1313-MSW-E **PCW**

Respondent CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill

Policy Revision 2 (September 2002)

Case ID No. 40188

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103053062

Media [Statute] Municipal Solid Waste

Enf. Coordinator Theresa Hagood

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.417(b)(5)(B) and (b)(6)

Violation Description Failed to submit an explanation for the apparent increase in arsenic and provide a map depicting ground water flow direction to the agency. Also, failure to submit a permit modification to monitor barium, arsenic, and lead for all wells on-site.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

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

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 2

97 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $5,000

Two single events are recommended (One event per required submittal).

Good Faith Efforts to Comply

0.0% Reduction $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 for this violation.

Violation Subtotal $5,000

Economic Benefit (EB) for this violation

Estimated EB Amount $38

Statutory Limit Test

Violation Final Penalty Total $5,250

This violation Final Assessed Penalty (adjusted for limits) $5,250

Economic Benefit Worksheet

Respondent CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill
Case ID No. 40188
Req. Ent. Reference No. RN103053062
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				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	$150	17-Mar-2006	22-Apr-2011	5.10	$38	n/a	$38
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated delayed costs to submit an explanation for arsenic increase, ground water flow map, and permit modifications. Date Required is the date permit modification was required to be submitted. Final Date is the estimated compliance date.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				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 $150

TOTAL $38

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600336101	CASCO HAULING, & EXCAVATING CO.	Classification: AVERAGE	Rating: 9.67
Regulated Entity:	RN103053062	CASCO HAULING AND EXCAVATION LANDFILL	Classification: AVERAGE	Site Rating: 23.00
ID Number(s):	MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	1403	
Location:	1306 E ANDERSON RD, HOUSTON, TX, 77047			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	August 10, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 10, 2005 to August 10, 2010			

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

Name: Theresa Hagood Phone: (512) 239-2540

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court 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 12/03/2007 (599427)
2 03/17/2010 (787430)
3 07/22/2010 (785579)

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

Date: 12/03/2007 (599427)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.113(a)
Description: Failure to maintain all required records.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 328, SubChapter F 328.56(d)(4)
Description: Failure to monitor scrap tires for vectors.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)
Description: Failure to register as a scrap tire storage facility.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 324, SubChapter A 324.6
40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)(1)
Description: Failure to label used oil storage tank with the words "Used Oil".

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.117(b)
Description: Failure to dispose was in an authorized area of the landfill.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 330, SubChapter F 330.119
PP, Attachment 12, COO, Section V PERMIT
Description: Failure to have the required information on the site sign.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.122
Description: Failure to have any boundary markers, buffer zone markers, grid markers, and soil liner markers.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.133(b)
Description: Failure to apply adequate intermediate cover.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.133(f)
Description: Failure to repair erosion of intermediate cover.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.134
Description: Failure to repair ponded water.
Self Report? NO Classification: Major

Citation: 30 TAC Chapter 30, SubChapter A 30.5(a)
Description: Failure to employe an licensed MSW operator.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)
Description: Failure to remove abandon vehicles from site.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 330, SubChapter F 330.111
PP, LGMP,Monitoring Probe Procedures PERMIT
Description: Failure to record water level readings during landfill gas sampling as required by the facility's LGMP.
Self Report? NO Classification: Major

Citation: 30 TAC Chapter 330, SubChapter J 330.253(e)(4)
Description: Failure to apply final cover.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter I 330.239(b)(5)
Description: Failure to submit a permit modification to the facility's ground water sampling and analysis plan to monitor for barium, arsenic, and lead for all wells.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter J 330.417(b)(5)(B)
Description: Failure to submit an explanation for the apparent increase in arsenic and provide a map depicting the groundwater flow direction to MSW Permit Section.

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 CASCO HAULING, & EXCAVATING CO. DBA CASCO HAULING AND EXCAVATION LANDFILL RN103053062	§ § § § § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1313-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 CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill ("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, represented by Derek Seal of the Winstead law firm, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a municipal solid waste ("MSW") Type IV landfill at 1306 East Anderson Road in Houston, Harris County, Texas (the "Site").

2. The Site involves or involved the management of 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 July 27, 2010.

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 Ten Thousand Five Hundred Dollars ($10,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand One Hundred Dollars ($2,100) of the administrative penalty and Two Thousand One Hundred Dollars ($2,100) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

   The remaining amount of Six Thousand Three Hundred Dollars ($6,300) of the administrative penalty shall be payable in three quarterly payments of Two Thousand One Hundred Dollars ($2,100) each. The next quarterly payment shall be paid within 90 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 90 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 and operator 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 May 4, 2010.

Specifically, the Respondent allowed approximately 15 scrap vehicles (approximately 155 cubic yards) to be abandoned at the Site.

2. Failed to submit an explanation for the apparent increase in arsenic and provide a map depicting ground water flow direction to the agency, in violation of 30 TEX. ADMIN. CODE § 330.417(b)(5)(B), as documented during an investigation conducted on May 4, 2010.

3. Failed to submit a permit modification to monitor barium, arsenic, and lead for all wells on-site, in violation of 30 TEX. ADMIN. CODE § 330.417(b)(6), as documented during an investigation conducted on May 4, 2010.

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: CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill, Docket No. 2010-1313-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. Within 30 days of the effective date of this Agreed Order,

      i. Remove the scrap vehicles from the Site;

      ii. Submit a permit modification for the additional groundwater monitoring parameters and an explanation for the apparent increase in arsenic, in accordance with 30 TEX. ADMIN. CODE § 330.417 to:

      Municipal Solid Waste Permits Section
      Waste Permits Division, MC 124
      Texas Commission on Environmental Quality
      P.O. Box 13087
      Austin, Texas 78711-3087

b. 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. and 2.a.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 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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 receives 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

8/5/11
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

6-17-11
Date

Richard A. Martinez
Name (Printed or typed)

President
Title

Authorized Representative of
CASCO HAULING, & EXCAVATING CO. dba Casco Hauling and Excavation Landfill

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.