

Executive Summary – Enforcement Matter – Case No. 41361
Timothy Mannan
RN106053127
Docket No. 2011-0453-MLM-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

MLM - AIR and MSW

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

7129 Merrell Court, Burleson, Johnson County

Type of Operation:

unauthorized municipal waste disposal site

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: July 22, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$2,047

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$2,047

Compliance History Classifications:

Person/CN – Not yet rated
Site/RN – Not yet rated

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Timothy Mannan

RN106053127

Docket No. 2011-0453-MLM-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: January 5, 2011
Date(s) of NOV(s): N/A
Date(s) of NOE(s): March 15, 2011

Violation Information

1. Failed to prevent unauthorized outdoor burning [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately, cease disposing of any additional waste and cease all unauthorized burning at the Site;
2. Within 30 days, ensure that all unauthorized waste at the Site, including burned material, is removed and properly disposed of at an authorized facility.
3. Within 45 days, submit written certification to demonstrate compliance:

Litigation Information

Date Petition(s) Filed: May 13, 2011
Date(s) Green Card(s) Signed: May 24, 2011
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: Phillip Goodwin, P.G., Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Allison Fischer, Air Enforcement Section, (512) 239-2574

TCEQ Regional Contact: Alyssa Taylor, Dallas/Fort Worth Regional Office, (817) 588-5828

Respondent: Timothy Mannan, 7129 Merrill Court, Burleson, Texas 76028-1019

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Mar-2011	Screening	22-Mar-2011	EPA Due	
	PCW	25-Mar-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	Timothy Mannan		
Reg. Ent. Ref. No.	RN106053127		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41361	No. of Violations	2
Docket No.	2011-0453-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Allison Fischer
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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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 adjustment for 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	\$53
Approx. Cost of Compliance	\$213

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	2.4%	Adjustment	\$47
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of proper disposal associated with violation no. 1.

Final Penalty Amount	\$2,047
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,047
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$2,047
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Screening Date 22-Mar-2011

Docket No. 2011-0453-MLM-E

PCW

Respondent Timothy Mannan

Policy Revision 2 (September 2002)

Case ID No. 41361

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106053127

Media [Statute] Air

Enf. Coordinator Allison Fischer

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 (<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)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 22-Mar-2011

Docket No. 2011-0453-MLM-E

PCW

Respondent Timothy Mannan

Policy Revision 2 (September 2002)

Case ID No. 41361

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106053127

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent unauthorized outdoor burning. Specifically, unauthorized burning of approximately 3.33 cubic yards of waste, including a microwave oven, electronic items, sheet iron, lumber, particle board, chainlink fence gate, cardboard boxes, a metal bed frame, plastic materials, fiberglass, carpet, and carpet padding was documented at the Respondent's property.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				X	10%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health and the environment have 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 \$9,000

\$1,000

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$47

Violation Final Penalty Total \$1,024

This violation Final Assessed Penalty (adjusted for limits) \$1,024

Economic Benefit Worksheet

Respondent Timothy Mannan
Case ID No. 41361
Req. Ent. Reference No. RN106053127
Media Air
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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$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)	\$47	18-Nov-2010	18-Nov-2010	0.00	\$0	\$47	\$47

Notes for AVOIDED costs

Cost to collect and dispose of 3.33 cubic yards of waste at a permitted municipal solid waste landfill rather than burning it. The Date Required and the Final Date are the date the outdoor burning event was documented.

Approx. Cost of Compliance \$47

TOTAL \$47

Screening Date 22-Mar-2011

Docket No. 2011-0453-MLM-E

PCW

Respondent Timothy Mannan

Policy Revision 2 (September 2002)

Case ID No. 41361

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106053127

Media [Statute] Air

Enf. Coordinator Allison Fischer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.15(a)

Violation Description Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, approximately 16.67 cubic yards of waste, including a microwave oven, electronic items, sheet iron, lumber, particle board, chainlink fence gate, cardboard boxes, a metal bed frame, plastic materials, fiberglass, carpet, and carpet padding were disposed of at an unauthorized Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (10%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and 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 \$9,000

\$1,000

Violation Events

Number of Violation Events 1 76 Number of violation days

Table for frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date on January 5, 2011 to the screening date of March 22, 2011.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$1,024

This violation Final Assessed Penalty (adjusted for limits) \$1,024

Economic Benefit Worksheet

Respondent Timothy Mannan
Case ID No. 41361
Req. Ent. Reference No. RN106053127
Media Air
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				0.00	\$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	\$166	5-Jan-2011	15-Sep-2011	0.69	\$6	n/a	\$6
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to collect and dispose of approximately 16.67 cubic yards of waste (waste remaining after being burned). The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

	\$166
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TOTAL

	\$6
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Compliance History

Customer/Respondent/Owner-Operator: CN603788746 Mannan, Timothy Ray Classification: Rating:
Regulated Entity: RN106053127 TIMOTHY MANNAN PROPERTY Classification: Site Rating:
ID Number(s): AIR QUALITY NON PERMITTED ID NUMBER R04106053127
Location: 7129 MERRELL CT, BURLESON, TX, 76028
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: March 17, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 17, 2006 to March 17, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Allison Fischer Phone: (512) 239 - 2574

Site Compliance History Components

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

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 03/09/2011 (899645)
 - 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TIMOTHY MANNAN;
RN106053127**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-0453-MLM-E

At its _____ agenda meeting, 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 chs. 361 and 382, 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 Timothy Mannan ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates an unauthorized municipal waste disposal site located at 7129 Merrell Court in Burleson, Johnson County, Texas (the "Site"). The Site involves the management and/or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During a record review conducted on January 5, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to prevent unauthorized outdoor burning. Specifically, unauthorized burning of approximately 3.33 cubic yards of waste, including a microwave oven, electronic items, sheet iron, lumber, particle board, chain link fence, cardboard boxes, a metal bed frame, plastic materials, fiberglass carpet, and carpet padding was documented at the Site; and
 - b. Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, approximately 16.67 cubic yards of waste, including a microwave oven, electronic items, sheet iron, lumber, particle board, chain link fence, cardboard boxes, a metal bed frame, plastic materials, fiberglass carpet, and carpet padding were disposed of at the Site.
3. Respondent received notice of the violations on or about March 20, 2011.

4. 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 Timothy Mannan" (the "EDPRP") in the TCEQ Chief Clerk's office on May 13, 2011.
5. By letter dated May 13, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on May 24, 2011, as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to prevent unauthorized outdoor burning, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to prevent the unauthorized disposal of municipal solid waste, in violation of 30 TEX. ADMIN. CODE § 330.15(a).
4. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 6, Respondent 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 Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of two thousand forty seven dollars (\$2,047.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

8. 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. Respondent is assessed an administrative penalty in the amount of two thousand forty seven dollars (\$2,047.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent'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.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Timothy Mannan; Docket No. 2011-0453-MLM-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

3. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondent shall cease disposing of any additional waste and cease all unauthorized burning at the Site;
 - b. Within 30 days after the effective date of this Order, Respondent shall ensure that all unauthorized waste at the Site, including burned material, is removed and properly disposed of at an authorized facility;
 - c. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.b. The certification shall be notarized by a State of Texas Notary Public and shall 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."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Alyssa Taylor, Air Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
6. If Respondent 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF MARSHALL COOVER

STATE OF TEXAS

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§
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COUNTY OF TRAVIS

"My name is Marshall Coover. 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 Timothy Mannan" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 13, 2011.

The EDPRP was mailed to Respondent's last known address on May 13, 2011 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on May 24, 2011, as evidenced by the signature on the card.

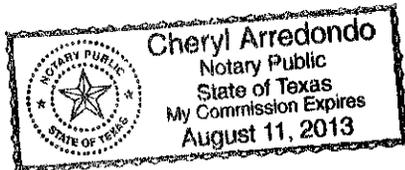
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Marshall Coover, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Marshall Coover, 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 23rd day of June, A.D. 2011.



Notary Signature