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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2010-1854-AIR-E TCEQ ID: RN103006631 CASE NO.: 40710**  
**RESPONDENT NAME: L & L Pallet Supply, Inc.**

|   |  |   |
|---|--|---|
| <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 checked="" type="checkbox"/> <b>AIR</b>  | <input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b> | <input type="checkbox"/> <b>INDUSTRIAL AND 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 type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>   | <input type="checkbox"/> <b>RADIOACTIVE WASTE</b>                  | <input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> L &amp; L Pallet Supply Trench Burner, 9601 South Georgia Street, Amarillo, Randall County</p> <p><b>TYPE OF OPERATION:</b> Pallet recycling company</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 14, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Mr. Tom Landry, Owner, L &amp; L Pallet Supply, Inc., P.O. Box 1091, Farwell, Texas 79325<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |  |   |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|---|---|--|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 1, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 1, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>AIR</b></p> <p>1) Failed to ensure that the length of the trench did not exceed the length of the air blower manifold. Specifically, the trench length was found to exceed the length of the manifold by eight feet [30 TEX. ADMIN. CODE § 106.496(3), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and New Source Review ("NSR") Permit by Rule Registration No. 99626].</p> <p>2) Failed to maintain a written record or log of the hours of operation of the trench burner [30 TEX. ADMIN. CODE § 106.496(4), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and NSR Permit by Rule Registration No. 99626].</p> <p>3) Failed to ensure that stockpiled material to be burned at a later date is kept at least 75 feet from the trench. Specifically, the distance from the trench to the stockpiled material was 27 feet [30 TEX. ADMIN. CODE § 106.496(9), TEX. HEALTH &amp; SAFETY CODE § 382.085(b), and NSR Permit by Rule Registration No. 99626].</p> <p>4) Failed to submit an annual compliance certification ("ACC") report. Specifically, the Respondent did not submit the ACC for the April 22, 2009 through April 21, 2010 reporting period [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), General Operating Permit ("GOP") O-3289/Air</p> | <p><b>Total Assessed:</b> \$2,710</p> <p><b>Total Deferred:</b> \$542<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,168</p> <p><b>Compliance History Classifications:</b><br/>                     Person/CN - Average<br/>                     Site/RN - Average</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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:</p> <p>a. By September 8, 2010, written daily logs were established to record hours of operation and start/stop times of the trench burner. These logs are posted on-site with the applicable permits and operating instructions; in addition, personnel were trained on how to properly keep the logs;</p> <p>b. On September 14, 2010, the trench was cleaned out and reshaped to meet the maximum length requirements; and</p> <p>c. By September 21, 2010, all stockpiled material was moved at least 75 feet from the trench area and Site personnel were instructed on maintaining this distance.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit an ACC for the April 22, 2009 through April 21, 2010 reporting period;</p> <p>b. Within 30 days after the effective date of this Agreed Order, implement measures and procedures to ensure the ACC is complete and submitted no later than 30 days after the end of the reporting period; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p> |

**RESPONDENT NAME: L & L Pallet Supply, Inc.**  
**DOCKET NO.: 2010-1854-AIR-E**

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|   |  |  |
|---|--|--|
| Curtain Incinerator GOP No. 518<br>Terms and Conditions (b)(2), and TEX.<br>HEALTH & SAFETY CODE § 382.085(b)]. |  |  |
|---|--|--|

Additional ID No(s): Air Permit O-3289



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

|              |                 |            |                  |            |                |  |
|--------------|-----------------|------------|------------------|------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 1-Nov-2010 | <b>Screening</b> | 9-Nov-2010 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 9-Nov-2010 |                  |            |                |  |

## RESPONDENT/FACILITY INFORMATION

|                             |                           |                           |       |  |  |
|-----------------------------|---------------------------|---------------------------|-------|--|--|
| <b>Respondent</b>           | L & L Pallet Supply, Inc. |                           |       |  |  |
| <b>Reg. Ent. Ref. No.</b>   | RN103006631               |                           |       |  |  |
| <b>Facility/Site Region</b> | 1-Amarillo                | <b>Major/Minor Source</b> | Minor |  |  |

## CASE INFORMATION

|  |                 |                              |                    |
|--|-----------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 40710           | <b>No. of Violations</b>     | 4                  |
| <b>Docket No.</b>                      | 2010-1854-AIR-E | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Air             | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                 | <b>Enf. Coordinator</b>      | James Nolan        |
|  |                 | <b>EC's Team</b>             | Enforcement Team 4 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0             | <b>Maximum</b>               | \$10,000           |

## Penalty Calculation Section

|   |                   |                |
|---|-------------------|----------------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | <b>\$3,000</b> |
|---|-------------------|----------------|

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

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

|                           |                  |                                |              |
|---------------------------|------------------|--------------------------------|--------------|
| <b>Compliance History</b> | 7.0% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | <b>\$210</b> |
|---------------------------|------------------|--------------------------------|--------------|

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

|                    |    |                  |                   |            |
|--------------------|----|------------------|-------------------|------------|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | <b>\$0</b> |
|--------------------|----|------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |              |
|--|-------------------|--------------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | <b>\$500</b> |
|--|-------------------|--------------|

|                         |                   |                   |            |
|-------------------------|-------------------|-------------------|------------|
| <b>Economic Benefit</b> | 0.0% Enhancement* | <b>Subtotal 6</b> | <b>\$0</b> |
|-------------------------|-------------------|-------------------|------------|

|                            |         |
|----------------------------|---------|
| Total EB Amounts           | \$193   |
| Approx. Cost of Compliance | \$1,750 |

\*Capped at the Total EB \$ Amount

|                             |                       |                |
|-----------------------------|-----------------------|----------------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | <b>\$2,710</b> |
|-----------------------------|-----------------------|----------------|

|   |      |                   |  |
|---|------|-------------------|--|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> |  |
|---|------|-------------------|--|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

|                             |                |
|-----------------------------|----------------|
| <b>Final Penalty Amount</b> | <b>\$2,710</b> |
|-----------------------------|----------------|

|                                   |                               |                |
|-----------------------------------|-------------------------------|----------------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | <b>\$2,710</b> |
|-----------------------------------|-------------------------------|----------------|

|                 |                 |                   |               |
|-----------------|-----------------|-------------------|---------------|
| <b>DEFERRAL</b> | 20.0% Reduction | <b>Adjustment</b> | <b>-\$542</b> |
|-----------------|-----------------|-------------------|---------------|

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

Notes:

Deferral offered for expedited settlement.

|                        |                |
|------------------------|----------------|
| <b>PAYABLE PENALTY</b> | <b>\$2,168</b> |
|------------------------|----------------|

**Screening Date** 9-Nov-2010

**Docket No.** 2010-1854-AIR-E

**PCW**

**Respondent** L & L Pallet Supply, Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 40710

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN103006631

**Media [Statute]** Air

**Enf. Coordinator** James Nolan

**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> )  | 1                 | 5%      |
|                               | Other written NOVs   | 1                 | 2%      |
| 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%      |

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)** 7%

>> **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 and one NOV with dissimilar violations.

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

Screening Date 9-Nov-2010

Docket No. 2010-1854-AIR-E

PCW

Respondent L & L Pallet Supply, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40710

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103006631

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 106.496(3), Tex. Health & Safety Code § 382.085(b), and New Source Review ("NSR") Permit by Rule Registration No. 99626

Violation Description Failed to ensure that the length of the trench did not exceed the length of the air blower manifold. Specifically, the trench length was found to exceed the length of the manifold by eight feet.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          | x     |

Percent 5%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

70 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$125

|               | Reduction  |                               |
|---------------|------------|-------------------------------|
|               | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary |            |                               |
| Ordinary      | x          |                               |
| N/A           |            | (mark with x)                 |

Notes

The Respondent returned to compliance by September 14, 2010 and the NOE is dated November 1, 2010.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$410

This violation Final Assessed Penalty (adjusted for limits) \$410

## Economic Benefit Worksheet

**Respondent** L & L Pallet Supply, Inc.  
**Case ID No.** 40710  
**Req. Ent. Reference No.** RN103006631  
**Media** Air  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Overtime 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)        | \$500 | 1-Sep-2010 | 14-Sep-2010 | 0.04 | \$1 | n/a | \$1 |

**Notes for DELAYED costs**

Estimated cost to clean out and reshape the trench to meet the maximum length requirements of the permit by rule. Date Required is based on the date of the investigation. Final Date is the date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

|  |       |
|--|-------|
|  | \$500 |
|--|-------|

**TOTAL**

|  |     |
|--|-----|
|  | \$1 |
|--|-----|

**Screening Date** 9-Nov-2010  
**Respondent** L & L Pallet Supply, Inc.  
**Case ID No.** 40710  
**Reg. Ent. Reference No.** RN103006631  
**Media [Statute]** Air  
**Enf. Coordinator** James Nolan

**Docket No.** 2010-1854-AIR-E

**PCW**

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

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 106.496(4), Tex. Health & Safety Code § 382.085(b), and NSR Permit by Rule Registration No. 99626

**Violation Description**

Failed to maintain a written record or log of the hours of operation of the trench burner.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

| OR | Release   | Harm                 |                      |                      | Percent                         |
|----|-----------|----------------------|----------------------|----------------------|---------------------------------|
|    |           | Major                | Moderate             | Minor                |                                 |
|    | Actual    | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |
|    | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |                                 |

**>> Programmatic Matrix**

|  | Falsification        | Major                               | Moderate                 | Minor                    | Percent                          |
|--|----------------------|-------------------------------------|--------------------------|--------------------------|----------------------------------|
|  | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="text" value="10%"/> |

Matrix Notes

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

|                         |              |                                     |
|-------------------------|--------------|-------------------------------------|
| mark only one with an x | daily        | <input type="text"/>                |
|                         | weekly       | <input type="text"/>                |
|                         | monthly      | <input type="text"/>                |
|                         | quarterly    | <input type="text"/>                |
|                         | semiannual   | <input type="text"/>                |
|                         | annual       | <input type="text"/>                |
|                         | single event | <input checked="" type="checkbox"/> |

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

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

Notes

The Respondent returned to compliance by September 8, 2010 and the NOE is dated November 1, 2010.

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

Estimated EB Amount

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** L & L Pallet Supply, Inc.  
**Case ID No.** 40710  
**Reg. Ent. Reference No.** RN103006631  
**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    | \$250 | 18-Aug-2003 | 8-Sep-2010 | 7.06 | \$88 | n/a | \$88 |
| Training/Sampling        | \$250 | 18-Aug-2003 | 8-Sep-2010 | 7.06 | \$88 | n/a | \$88 |
| 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 ensure hours of operation and start/stop times of the trench burner are properly recorded and to train personnel in maintaining the records. Date required is the first date of non-compliance. Final date is the date of compliance.

### Avoided Costs

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

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

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$177

**Screening Date** 9-Nov-2010  
**Respondent** L & L Pallet Supply, Inc.  
**Case ID No.** 40710  
**Reg. Ent. Reference No.** RN103006631  
**Media [Statute]** Air  
**Enf. Coordinator** James Nolan

**Docket No.** 2010-1854-AIR-E

**PCW**

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

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code § 106.496(9), Tex. Health & Safety Code § 382.085(b), and NSR Permit by Rule Registration No. 99626

**Violation Description**

Failed to ensure that stockpiled material to be burned at a later date is kept at least 75 feet from the trench. Specifically, the distance from the trench to the stockpiled material was 27 feet.

**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

| OR | Release   | Harm  |          |       | Percent |
|----|-----------|-------|----------|-------|---------|
|    |           | Major | Moderate | Minor |         |
|    | Actual    |       |          |       | 5%      |
|    | Potential |       |          | X     |         |

**>> Programmatic Matrix**

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$9,500

\$500

**Violation Events**

Number of Violation Events 1 Number of violation days 70

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        |   |
|                         | weekly       |   |
|                         | monthly      |   |
|                         | quarterly    |   |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event | X |

**Violation Base Penalty** \$500

One single event is recommended.

**Good Faith Efforts to Comply**

25.0% Reduction

\$125

|               | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary |            |                               |
| Ordinary      | X          |                               |
| N/A           |            | (mark with x)                 |

Notes

The Respondent returned to compliance by September 21, 2010 and the NOE is dated November 1, 2010.

**Violation Subtotal** \$375

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1

**Violation Final Penalty Total** \$410

**This violation Final Assessed Penalty (adjusted for limits)** \$410

## Economic Benefit Worksheet

**Respondent** L & L Pallet Supply, Inc.  
**Case ID No.** 40710  
**Reg. Ent. Reference No.** RN103006631  
**Media** Air  
**Violation No.** 3

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 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)        | \$500 | 1-Sep-2010 | 21-Sep-2010 | 0.05 | \$1 | n/a | \$1 |

Notes for DELAYED costs

Estimated cost to move all stockpiled material to the required 75 foot distance from the trench area. Date Required is based on the date of the investigation. Final Date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$1

Screening Date 9-Nov-2010

Docket No. 2010-1854-AIR-E

PCW

Respondent L & L Pallet Supply, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40710

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103006631

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), General Operating Permit ("GOP") O-3289/Air Curtain Incinerator GOP No. 518 Terms and Conditions (b)(2), and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit an annual compliance certification ("ACC") report. Specifically, the Respondent did not submit the ACC for the April 22, 2009 through April 21, 2010 reporting period, as documented during an investigation conducted on September 1, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 0%      |
| Potential |       |          |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               | x     |          |       | 10%     |

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 173

|              |   |
|--------------|---|
| 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 \$14

Violation Final Penalty Total \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

## Economic Benefit Worksheet

**Respondent** L & L Pallet Supply, Inc.  
**Case ID No.** 40710  
**Req. Ent. Reference No.** RN103006631  
**Media** Air  
**Violation No.** 4

| 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    | \$250 | 21-May-2010 | 15-Jul-2011 | 1.15 | \$14 | n/a | \$14 |
| 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

Estimated cost of preparation and submittal of an annual compliance certification. Date required is the date the report should have been submitted. Final date is the expected date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

**TOTAL**

\$14

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601543465 L & L Pallet Supply, Inc. Classification: AVERAGE Rating: 1.50  
Regulated Entity: RN103006631 L & L PALLET SUPPLY TRENCH Classification: AVERAGE Site Rating: 3.75  
BURNER

|               |                         |                |            |
|---------------|-------------------------|----------------|------------|
| ID Number(s): | AIR NEW SOURCE PERMITS  | AFS NUM        | 4877702040 |
|               | AIR NEW SOURCE PERMITS  | ACCOUNT NUMBER | 960353W    |
|               | AIR NEW SOURCE PERMITS  | REGISTRATION   | 55862L001  |
|               | AIR OPERATING PERMITS   | PERMIT         | 3289       |
|               | AIR EMISSIONS INVENTORY | ACCOUNT NUMBER | 960353W    |

Location: 9601 SOUTH GEORGIA STREET  
AMARILLO, RANDALL COUNTY, TEXAS

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: November 01, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 01, 2005 to November 01, 2010

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

Name: James Nolan Phone: (512) 239-6634

## 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: 9/1/2010 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 09/25/2007 (595128)

2 10/30/2007 (599189)

3 02/12/2009 (725834)

4 10/29/2010 (871958)

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

Date: 09/25/2007 (595128)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter V 106.496(14)

Description: failure to have an operator present at all times when the trench burner is operating

Date: 11/10/2008 (706977)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 106, SubChapter V 106.496(4)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to limit trench burner operation to the hours between 8:00 a.m. and 6:00 p.m.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 106, SubChapter V 106.496(6)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to keep the blower on until all material in the trench burner is consumed  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 106, SubChapter V 106.496(9)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to maintain a distance of 75 feet between the trench and stockpiled material  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 106, SubChapter V 106.496(10)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to comply with the requirement that material shall not be added to the trench in such a manner as to be stacked above the air curtain at any time

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  
L & L PALLET SUPPLY, INC.  
RN103006631**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-1854-AIR-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 L & L Pallet Supply, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a pallet recycling company at 9601 South Georgia Street, Amarillo, Randall County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 November 6, 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 Two Thousand Seven Hundred Ten Dollars (\$2,710) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand One Hundred Sixty-Eight Dollars (\$2,168) of the administrative penalty and Five Hundred Forty-Two Dollars (\$542) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
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 recognizes that the Respondent has implemented the following corrective measures at the Site:
  - a. By September 8, 2010, written daily logs were established to record hours of operation and start/stop times of the trench burner. These logs are posted on-site with the applicable permits and operating instructions; in addition, personnel were trained on how to properly keep the logs;
  - b. On September 14, 2010, the trench was cleaned out and reshaped to meet the maximum length requirements in accordance with 30 TEX. ADMIN. CODE § 106.496(3); and
  - c. By September 21, 2010, all stockpiled material was moved at least 75 feet from the trench area in accordance with 30 TEX. ADMIN. CODE § 106.496(9) and Site personnel were instructed on maintaining this distance.
10. 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.
11. 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.
12. 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 ensure that the length of the trench did not exceed the length of the air blower manifold, in violation of 30 TEX. ADMIN. CODE § 106.496(3), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review ("NSR") Permit by Rule Registration No. 99626, as documented during an investigation conducted on September 1, 2010. Specifically, the trench length was found to exceed the length of the manifold by eight feet.
2. Failed to maintain a written record or log of the hours of operation of the trench burner, in violation of 30 TEX. ADMIN. CODE § 106.496(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and NSR Permit by Rule Registration No. 99626, as documented during an investigation conducted on September 1, 2010.
3. Failed to ensure that stockpiled material to be burned at a later date is kept at least 75 feet from the trench, in violation of 30 TEX. ADMIN. CODE § 106.496(9), TEX. HEALTH & SAFETY CODE § 382.085(b), and NSR Permit by Rule Registration No. 99626, as documented during an investigation conducted on September 1, 2010. Specifically, the distance from the trench to the stockpiled material was 27 feet.
4. Failed to submit an annual compliance certification ("ACC") report, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), General Operating Permit ("GOP") O-3289/Air Curtain Incinerator GOP No. 518 Terms and Conditions (b)(2), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 1, 2010. Specifically, the Respondent did not submit the ACC for the April 22, 2009 through April 21, 2010 reporting period.

### 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: L & L Pallet Supply, Inc., Docket No. 2010-1854-AIR-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 after the effective date of this Agreed Order, submit an ACC for the April 22, 2009 through April 21, 2010 reporting period;
- b. Within 30 days after the effective date of this Agreed Order, implement measures and procedures to ensure the ACC is complete and submitted no later than 30 days after the end of the reporting period; and
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Air Section, Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

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

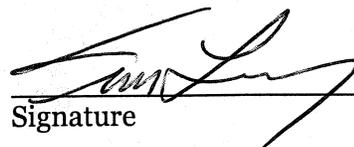
\_\_\_\_\_  
Date 3/1/2011

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

\_\_\_\_\_  
Date 12-27-10

TOM LANDRY  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
L & L Pallet Supply, Inc.

\_\_\_\_\_  
Title OWNER

**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.