

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO. 2010-1012-MSW-E      RN104566120      CASE NO. 39909**  
**RESPONDENT NAME: TRIPLE A DUMP TRUCK SERVICE, L.L.C.**

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

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

**SITE WHERE VIOLATION(S) OCCURRED:** 4 ¼ miles north of Western Road, Mission, Hidalgo County

**TYPE OF OPERATION:** sand Pit

**SMALL BUSINESS:**     Yes     No     N/A

**OTHER SIGNIFICANT MATTERS:** There are no complaints related to this enforcement action. There is no record of additional pending enforcement action regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired January 10, 2011. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-3400  
 Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Andrea Park, Waste Enforcement Section, MC 128 , (512) 239-4575

**TCEQ Regional Contact:** Jaime Garza, Harlingen Regional Office, MC R-15, (956) 430-6030

**Respondent:** Arnolando Pena, Jr., Member, Triple A Dump Truck Service, L.L.C., P.O. Box 297, Mission, Texas 78573

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint:</b> N/A</p> <p><b>Date of Investigation:</b> March 9, 2010</p> <p><b>Date of NOE:</b> May 20, 2010</p> <p><b>Background Facts:</b>                      The EDPRP was filed on September 10, 2010, and mailed to Respondent 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 September 16, 2010. Respondent failed to file an answer and failed to request a hearing.</p> <p><b>Current Compliance Status:</b>                      The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p><b>MSW:</b>                      Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p><b>Total Assessed:</b> \$2,500</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$2,500</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Compliance History Classifications:</b>  <i>Person/CN – Average</i>  <i>Site/RN – Poor</i></p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b>                      Respondent shall undertake the following technical requirements:</p> <p>1. Immediately:</p> <ul style="list-style-type: none"> <li>a. Cease accepting and/or disposing of any additional waste at the Site;</li> <li>b. Within 30 days, remove all waste from the Site and dispose of it at an authorized facility; and</li> <li>c. Within 45 days, submit written certification demonstrating compliance.</li> </ul>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	24-May-2010			
	<b>PCW</b>	14-Jun-2010	<b>Screening</b>	14-Jun-2010	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	TRIPLE A DUMP TRUCK SERVICE, L.L.C.				
<b>Reg. Ent. Ref. No.</b>	RN104566120				
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	39909	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2010-1012-MSW-E	<b>Order Type</b>	Findings		
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Andrea Park		
		<b>EC's Team</b>	Enforcement Team 6		
<b>Admin. Penalty \$ Limit</b>	<b>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>	\$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.

<b>Compliance History</b>	25.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$500
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<b>Notes</b>	Enhancement for one default order without a denial of liability.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$279	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,951	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$2,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,500
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$2,500
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**Screening Date** 14-Jun-2010

**Docket No.** 2010-1012-MSW-E

**PCW**

**Respondent** TRIPLE A DUMP TRUCK SERVICE, L.L.C.

*Policy Revision 2 (September 2002)*

**Case ID No.** 39909

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN104566120

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Andrea Park

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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)** 25%

**>> 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 default order without a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 25%

<b>Screening Date</b>	14-Jun-2010	<b>Docket No.</b>	2010-1012-MSW-E	<b>PCW</b>
<b>Respondent</b>	TRIPLE A DUMP TRUCK SERVICE, L.L.C.			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	39909			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN104566120			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Andrea Park			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 330.15(c)			
<b>Violation Description</b>	Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 713 cubic yards of MSW consisting of construction and demolition waste were disposed of at the Site.			
		<b>Base Penalty</b>	\$10,000	

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual			x	<b>Percent</b> 10%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	<b>Percent</b> 0%
<b>Matrix Notes</b>	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.				
					<b>Adjustment</b> \$9,000

**Violation Events**

Number of Violation Events	2	97	Number of violation days
<i>mark only one with an x</i>	daily		<b>Violation Base Penalty</b> \$2,000
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		
Two quarterly events are recommended from the March 9, 2010 investigation date to the June 14, 2010 screening date.			

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		
N/A	x	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	
	<b>Violation Subtotal</b>	\$2,000

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

<b>Estimated EB Amount</b>	\$279	<b>Violation Final Penalty Total</b>	\$2,500
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$2,500

## Economic Benefit Worksheet

**Respondent** TRIPLE A DUMP TRUCK SERVICE, L.L.C.  
**Case ID No.** 39909  
**Reg. Ent. Reference No.** RN104566120  
**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
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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	\$5,951	9-Mar-2010	14-Feb-2011	0.94	\$279	n/a	\$279
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of approximately 713 cubic yards of MSW at an authorized facility. 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

\$5,951

**TOTAL**

\$279

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602809204	TRIPLE A DUMP TRUCK SERVICE, L.L.C.	Classification: AVERAGE	Rating: 30.50
Regulated Entity:	RN104566120	TRIPLE A DUMP TRUCK SERVICE UNA SITE	Classification: POOR	Site Rating: 61.50
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER			455150139
Location:	4 1/4 MI N WESTERN RD MISSION TX			
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	June 15, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 15, 2005 to June 15, 2010			

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

Name: Andrea Park Phone: 512-239-4575

## 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.
- Effective Date: 09/04/2008 ADMINORDER 2006-0076-MSW-E  
Classification: Major  
Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)  
30 TAC Chapter 330, SubChapter C 330.103(b)  
Description: Triple A failed to prevent the unauthorized disposal of municipal solid waste.
- 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 | 04/20/2006 | (462681) |
| 2 | 12/01/2009 | (783382) |
| 3 | 05/20/2010 | (799155) |
- 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  
TRIPLE A DUMP TRUCK  
SERVICE, L.L.C.;  
RN104566120**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

### **DOCKET NO. 2010-1012-MSW-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is TRIPLE A DUMP TRUCK SERVICE, L.L.C. ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a sand pit located 4 ¼ miles north of Western Road in Mission, Hidalgo County, Texas (the "Site").
2. The Site involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on March 9, 2010, a TCEQ Harlingen Regional Office investigator documented that Respondent failed to prevent the unauthorized disposal of MSW. Specifically, approximately 713 cubic yards of MSW consisting of construction and demolition waste were disposed of at the Site.
4. Respondent received notice of the violation on or about May 25, 2010.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of TRIPLE A DUMP TRUCK SERVICE, L.L.C." (the "EDPRP") in the TCEQ Chief Clerk's office on September 10, 2010.
6. By letter dated September 10, 2010, sent 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 September 16, 2010, as evidenced by the signature on the card.

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

### **CONCLUSIONS OF LAW**

1. As evidenced by Findings of Fact Nos. 1 and 2, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Respondent failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, 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.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of the Texas Water Code and the Texas Health and Safety Code, within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of two thousand five hundred dollars (\$2,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of two thousand five hundred dollars (\$2,500.00) for violations of state statutes and the 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: TRIPLE A DUMP TRUCK SERVICE, L.L.C.; Docket No. 2010-1012-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

3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Respondent shall cease accepting and/or disposing of any additional waste at the Site;
  - b. Within 30 days after the effective date of this Order, Respondent shall remove all MSW from the Site and dispose of it at an authorized facility; and
  - 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. and 3.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 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  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and:

Waste Section Manager  
Harlingen Regional Office  
Texas Commission on Environmental Quality  
1804 West Jefferson Avenue  
Harlingen, Texas 78550-5247

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.

TRIPLE A DUMP TRUCK SERVICE, L.L.C.  
Docket No. 2010-1012-MSW-E  
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**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF TAMMY L. MITCHELL**

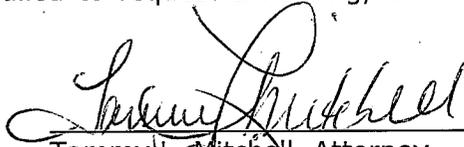
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS §

"My name is Tammy L. Mitchell. 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 TRIPLE A DUMP TRUCK SERVICE, L.L.C' (the 'EDPRP') was filed with the Office of the Chief Clerk on September 10, 2010.

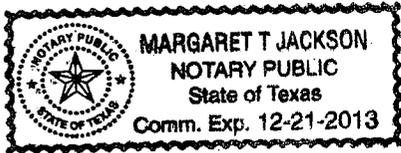
The EDPRP was mailed to Respondent at its last known address on September 10, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt 'green card,' Respondent received notice of the EDPRP on September 16, 2010, as evidenced by the signature on the card.

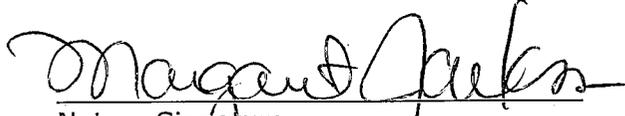
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."

  
\_\_\_\_\_  
Tammy L. Mitchell, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 15<sup>th</sup> day of November 2010 A.D., 2010.



  
\_\_\_\_\_  
Notary Signature