

Executive Summary – Enforcement Matter – Case No. 40927

City of Big Lake

RN102328176

Docket No. 2011-0048-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Big Lake Landfill, 1901 West Highway 67, Big Lake, Reagan County

Type of Operation:

Landfill

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 22, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,937

Amount Deferred for Expedited Settlement: \$787

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$3,150

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc.

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: \$3,937

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 40927
City of Big Lake
RN102328176
Docket No. 2011-0048-MSW-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: October 25, 2010
Date(s) of NOE(s): December 16, 2010

Violation Information

1. Failed to prevent the unloading of waste in unauthorized areas at the Facility. Specifically, two animal carcasses were buried in an easement between the active and inactive landfill cells [30 TEX. ADMIN. CODE § 330.133(b) and MSW Permit No. 86B, Site Operating Plan IV. 4.7.3, Waste Unloading Procedures].
2. Failed to control windblown waste and litter from the active working face. Specifically, a large amount of litter was observed along the northern and southern areas of the Type I cell [30 TEX. ADMIN. CODE § 330.139(1) and MSW Permit No. 86B, Site Operating Plan IV. 4.10, Control of Windblown Waste and Litter].
3. Failed to provide adequate daily, weekly and intermediate cover. Specifically, the Type I cell had inadequate daily and intermediate cover. The Type IV cell had inadequate weekly cover [30 TEX. ADMIN. CODE § 330.165(a), (b) and (c) and MSW Permit No. 86B, Site Operating Plan, IV. 4.23, Landfill Cover].
4. Failed to apply intermediate grid markers as required. Specifically, intermediate grid markers were not visible for the Type 1 cell [30 TEX. ADMIN. CODE § 330.143(b)(5) and MSW Permit No. 86B, Site Operating Plan IV. 4.12, Landfill Markers and Benchmark].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The order will also require that the Respondent undertake the following technical requirements:
 - a. Within 30 days:
 - i. Remove the animal carcasses from the easement and dispose of them properly;
 - ii. Develop and implement procedures to control windblown waste and litter and pickup

Executive Summary – Enforcement Matter – Case No. 40927
City of Big Lake
RN102328176
Docket No. 2011-0048-MSW-E

windblown litter throughout the facility on a daily basis;

iii. Maintain adequate daily, weekly and intermediate cover over the landfill disposal cells; and

iv. Install intermediate grid markers for the Type 1 cell.

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

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, Waste Enforcement Section, MC 128, (512) 239-4492; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

TCEQ SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732

Respondent: The Honorable Cindy O'Bryan, Mayor, The City of Big Lake, P. O. Box 310, Big Lake, Texas 76932

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0048-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Big Lake

Payable Penalty Amount: Three Thousand One Hundred Fifty Dollars (\$3,150)

SEP Amount: Three Thousand One Hundred Fifty Dollars (\$3,150)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance

Location of SEP: Reagan County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development
Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of Big Lake
Agreed Order – Attachment A

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

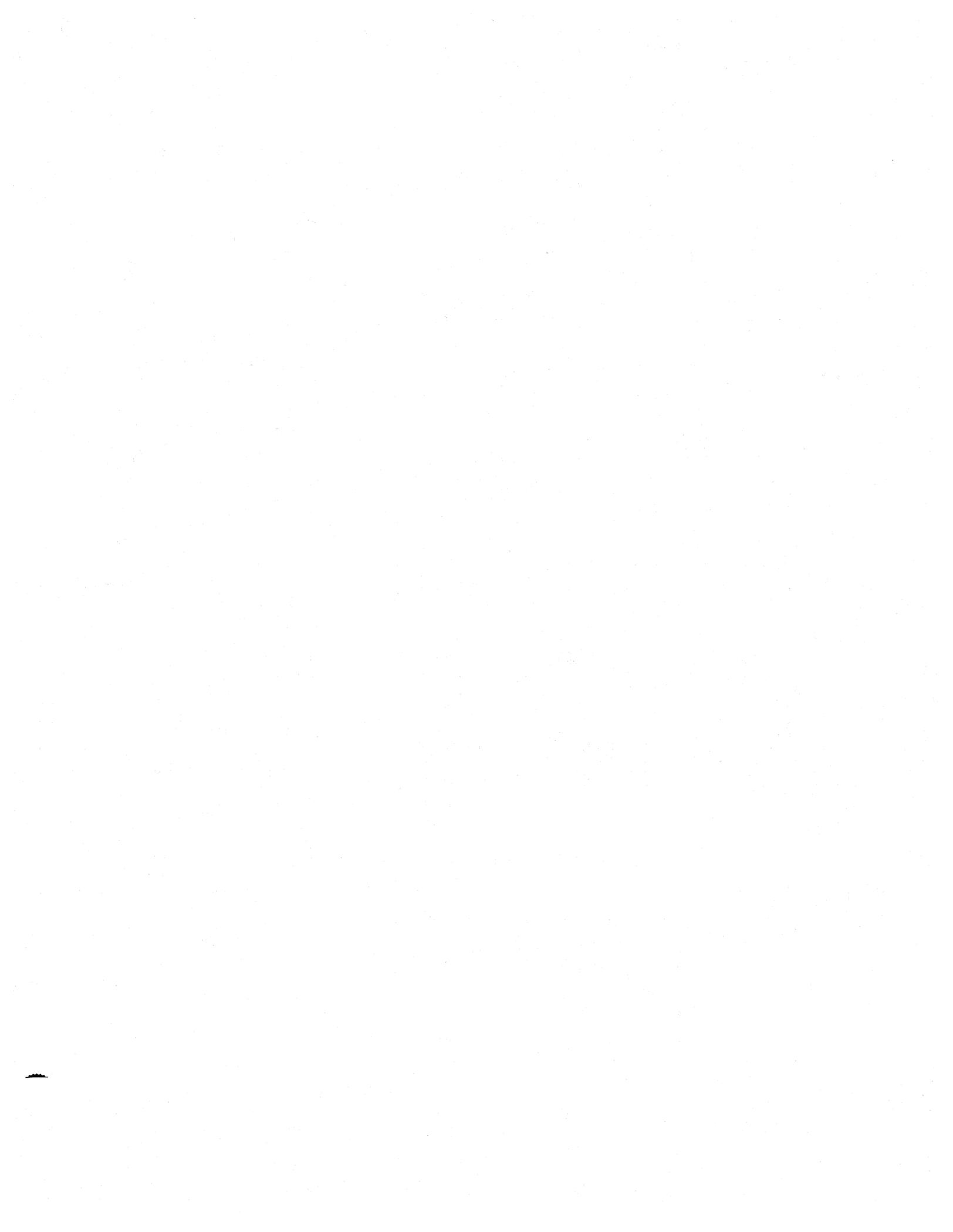
Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Dec-2010	Screening	3-Jan-2011	EPA Due	
	PCW	6-Jan-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Big Lake				
Reg. Ent. Ref. No.	RN102328176				
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	40927	No. of Violations	4	
Docket No.	2011-0048-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	Yes	
Multi-Media		Enf. Coordinator	Michael Meyer	
		EC's Team	Enforcement Team 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$3,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **27.0%** Enhancement **Subtotals 2, 3, & 7** **\$837**

Notes Enhancement for one NOV with same or similar violations, one NOV with dissimilar violations and one agreed order with a denial of liability.

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

Notes The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts **\$80**
 Approx. Cost of Compliance **\$2,100**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$3,937**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$3,937**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$3,937**

DEFERRAL **20.0%** Reduction **Adjustment** **\$787**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$3,150**

Screening Date 3-Jan-2011

Docket No. 2011-0048-MSW-E

PCW

Respondent City of Big Lake

Policy Revision 2 (September 2002)

Case ID No. 40927

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328176

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

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>)	1	20%
	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) 27%

>> **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 or similar violations, one NOV with dissimilar violations and one agreed order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 3-Jan-2011

Docket No. 2011-0048-MSW-E

PCW

Respondent City of Big Lake

Policy Revision 2 (September 2002)

Case ID No. 40927

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328176

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.133(b) and Municipal Solid Waste ("MSW") Permit No. 86B, Site Operating Plan IV. 4.7.3, Waste Unloading Procedures

Violation Description Failed to prevent the unloading of waste in unauthorized areas at the Facility. Specifically, two animal carcasses were buried in an easement between the active and inactive landfill cells.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 70

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the October 25, 2010 investigation to the January 3, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$1,270

This violation Final Assessed Penalty (adjusted for limits) \$1,270

Economic Benefit Worksheet

Respondent City of Big Lake
Case ID No. 40927
Reg. Ent. Reference No. RN102328176
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	25-Oct-2010	31-Jul-2011	0.76	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to remove and properly dispose of two animal carcasses. The date required is the investigation date and final date is the projected 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

\$19

Screening Date 3-Jan-2011

Docket No. 2011-0048-MSW-E

PCW

Respondent City of Big Lake

Policy Revision 2 (September 2002)

Case ID No. 40927

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328176

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.139(1) and MSW Permit No. 86B, Site Operating Plan, IV. 4.10, Control of Windblown Waste and Litter

Violation Description Failed to control windblown waste and litter from the active working face. Specifically, a large amount of litter was observed predominately along the northern and southern areas of the Type 1 area.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

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 Number of violation days 70

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the October 25, 2010 investigation to the January 3, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$1,270

This violation Final Assessed Penalty (adjusted for limits) \$1,270

Economic Benefit Worksheet

Respondent City of Big Lake
Case ID No. 40927
Reg. Ent. Reference No. RN102328176
Media Municipal Solid Waste
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				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	25-Oct-2010	31-Jul-2011	0.76	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to remove windblown litter and return it to the active face and to develop and implement procedures for controlling windblown waste and litter. The date required is the investigation date and the final date is the projected 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

\$19

Screening Date 3-Jan-2011

Docket No. 2011-0048-MSW-E

PCW

Respondent City of Big Lake

Policy Revision 2 (September 2002)

Case ID No. 40927

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328176

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 330.165(a), (b) and (c), MSW Permit No. 86B, Site Operating Plan, IV.4.23, Landfill Cover

Violation Description Failed to provide adequate daily, weekly and intermediate cover. Specifically, the Type 1 cell had inadequate daily and intermediate cover. The Type IV cell had inadequate weekly cover.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 70

mark only one with an x	daily		Violation Base Penalty \$1,000
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

One quarterly event is recommended from the October 25, 2010 investigation to the January 3, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$0

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 \$38 Violation Final Penalty Total \$1,270

This violation Final Assessed Penalty (adjusted for limits) \$1,270

Economic Benefit Worksheet

Respondent City of Big Lake
Case ID No. 40927
Reg. Ent. Reference No. RN102328176
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$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)	\$1,000	25-Oct-2010	31-Jul-2011	0.76	\$38	n/a	\$38

Notes for DELAYED costs

Estimated cost to provide adequate cover to the Type I and Type IV cells. The date required is the investigation date and the final date is the projected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$38

Screening Date 3-Jan-2011

Docket No. 2011-0048-MSW-E

PCW

Respondent City of Big Lake

Policy Revision 2 (September 2002)

Case ID No. 40927

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102328176

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 330.143(b)(5) and MSW Permit No. 86B, Site Operating Plan IV.4.12, Landfill Markers and Benchmark

Violation Description Failed to apply intermediate grid markers as required. Specifically, intermediate grid markers were not visible for the Type 1 cell.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes Greater than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 70 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4 Violation Final Penalty Total \$127

This violation Final Assessed Penalty (adjusted for limits) \$127

Economic Benefit Worksheet

Respondent City of Big Lake
Case ID No. 40927
Reg. Ent. Reference No. RN102328176
Media Municipal Solid Waste
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				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)	\$100	25-Oct-2010	31-Jul-2011	0.76	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to install intermediate grid markers where boundary markers are not visible in the Type 1 area. The date required is the investigation date and the final date is the projected 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

\$100

TOTAL

\$4

Compliance History

Customer/Respondent/Owner-Operator: CN600337786 City of Big Lake Classification: AVERAGE Rating: 3.13

Regulated Entity: RN102328176 CITY OF BIG LAKE LANDFILL Classification: AVERAGE Site Rating: 25.30

ID Number(s):

AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	RC00020
AIR NEW SOURCE PERMITS	AFS NUM	4838300032
MUNICIPAL SOLID WASTE DISPOSAL	PERMIT	86B
AIR OPERATING PERMITS	PERMIT	2831
AIR OPERATING PERMITS	ACCOUNT NUMBER	RC00020
STORMWATER	PERMIT	TXR05X247
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	RC00020

Location: 1901 W HWY 67, BIG LAKE, TX, 76932

TCEQ Region: REGION 08 - SAN ANGELO

Date Compliance History Prepared: December 29, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 29, 2005 to December 29, 2010

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

Name: Michael Meyer Phone: (512) 239 - 4492

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? The University Of Texas System
4. If Yes, who was/were the prior owner(s)/operator(s)? City of Big Lake
5. When did the change(s) in owner or operator occur? 02/28/2008
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.

Effective Date: 12/02/2006

ADMINORDER 2006-0357-MSW-E

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.133(b)

30 TAC Chapter 330, SubChapter F 330.133(c)

30 TAC Chapter 330, SubChapter F 330.133(e)

Rqmt Prov: PART IV. Site Operating Plan § 4.5.2 PERMIT

Description: Failure to prohibit the unloading of waste in unauthorized areas.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter D 330.165(a)

30 TAC Chapter 330, SubChapter F 330.139

Rqmt Prov: SOP Page IV-5 & 6 4.3.3 & 4.3.6 PERMIT

Description: Failure to control windblown waste and litter.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter D 330.143(b)(2)

30 TAC Chapter 330, SubChapter D 330.143(b)(4)

30 TAC Chapter 330, SubChapter D 330.143(B)(5)

Rqmt Prov: SOP Page IV-5 4.3.4 PERMIT

Description: Failure to install easement and right-of-way markers as required.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter L 330.305

Rqmt Prov: Permit Page 5 III. PERMIT

Description: Failure to design, construct, and maintain a complete run-on control system.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter D 330.165(h)

Rqmt Prov: SOP Page IV-9 & -10 4.3.16 PERMIT

Description: Failure to maintain an intermediate cover log.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 02/22/2006(455318)
2 11/15/2006 (519257)
3 07/17/2007 (567787)
4 11/13/2007 (607437)
5 02/28/2008 (637380)
6 12/15/2008 (706121)
7 04/19/2009 (742948)
8 06/22/2009 (759446)
9 12/16/2010 (873018)

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

N/A Date: 01/25/2008 (615868)CN600337786
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 330, SubChapter F 330.115
Description: Failure to notify of a fire as required by TCEQ rules.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 111, SubChapter B 111.201
Description: Failure to comply with the general prohibitions regarding outdoor burning.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.111
Permit PERMIT
Description: Failure to promptly extinguish an accidental fire.

Date: 12/15/2008 (706121) CN600337786
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.120
30 TAC Chapter 330, SubChapter F 330.120(1)
30 TAC Chapter 330, SubChapter F 330.120(2)
Permit PERMIT
Description: Failure to control windblown waste and litter.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter E 330.55(b)(2)
Permit PERMIT
Description: Failure to design, construct, and maintain a complete run-on control system.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.133(a)
Permit PERMIT
Description: Failure to provide adequate daily cover.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.133(b)
Permit PERMIT
Description: Failure to provide intermediate cover in the former Type IV area.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.134
Permit PERMIT
Description: Failure to prevent ponded water in the Type I area.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter F 330.133(a)
Permit PERMIT

Description: Failure to provide adequate weekly cover.
Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(e)(6)(A)
30 TAC Chapter 330, SubChapter A 330.7(a)

Description: Failure to comply with the applicable rules regarding disposal/discharges of petroleum products.

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
CITY OF BIG LAKE
RN102328176

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

AGREED ORDER
DOCKET NO. 2011-0048-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Big Lake ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent operates a landfill at 1901 West Highway 67 in Big Lake, Reagan County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 21, 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 Three Thousand Nine Hundred Thirty-Seven Dollars (\$3,937) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Seven Hundred Eighty-Seven Dollars (\$787) of the administrative penalty 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. Three Thousand One Hundred Fifty Dollars (\$3,150) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Facility, the Respondent is alleged to have:

1. Failed to prevent the unloading of waste in unauthorized areas at the Facility, in violation of 30 TEX. ADMIN. CODE § 330.133(b) and MSW Permit No. 86B, Site Operating Plan IV. 4.7.3, Waste Unloading Procedures, as documented during an investigation conducted on October 25, 2010. Specifically, two animal carcasses were buried in an easement between the active and inactive landfill cells.
2. Failed to control windblown waste and litter from the active working face, in violation of 30 TEX. ADMIN. CODE § 330.139(1) and MSW Permit No. 86B, Site Operating Plan IV. 4.10, Control of Windblown Waste and Litter, as documented during an investigation conducted on October 25, 2010. Specifically, a large amount of litter was observed along the northern and southern areas of the Type I cell.
3. Failed to provide adequate daily, weekly and intermediate cover, in violation of 30 TEX. ADMIN. CODE § 330.165(a), (b) and (c) and MSW Permit No. 86B, Site Operating Plan,

IV. 4.23, Landfill Cover, as documented during an investigation conducted on October 25, 2010. Specifically, the Type I cell had inadequate daily and intermediate cover. The Type IV cell had inadequate weekly cover.

4. Failed to apply intermediate grid markers as required, in violation of 30 TEX. ADMIN. CODE § 330.143(b)(5) and MSW Permit No. 86B, Site Operating Plan IV. 4.12, Landfill Markers and Benchmark, as documented during an investigation conducted on October 25, 2010. Specifically, intermediate grid markers were not visible for the Type 1 cell.

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: City of Big Lake, Docket No. 2011-0048-MSW-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section 1 of Paragraph 6 above, Three Thousand One Hundred Fifty Dollars (\$3,150) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. 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
 - i. Remove the animal carcasses from the easement and dispose of them properly, in accordance with MSW Permit No. 86B, Site Operating Plan IV. 4.7.3, and 30 TEX. ADMIN. CODE § 330.133(b);

- ii. Develop and implement procedures to control windblown waste and litter and pickup windblown litter throughout the facility on a daily basis, in accordance with MSW Permit No. 86B, Site Operating Plan IV. 4.10, and 30 TEX. ADMIN. CODE § 330.139(1);
 - iii. Maintain adequate daily, weekly and intermediate cover over the landfill disposal cells, in accordance with MSW Permit No. 86B, Site Operating Plan IV. 4.23, and 30 TEX. ADMIN. CODE § 330.165(a), (b) and (c); and
 - iv. Install intermediate grid markers for the Type 1 cell, in accordance with MSW Permit No. 86B, Site Operating Plan IV. 4.12, and 30 TEX. ADMIN. CODE § 330.143(b)(5).
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.iv. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section, Manager
San Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7013

4. 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 Facility operations referenced in this Agreed Order.
5. 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

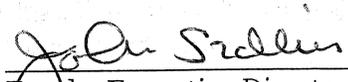
violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the 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.
7. 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.
8. 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.
9. 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

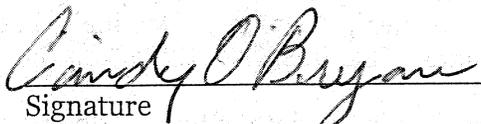
Date 5/20/2011

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 3-15-2011

CINDY O'BRYAN
Name (Printed or typed)
Authorized Representative of
City of Big Lake

Mayor
Title

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.

Attachment A
Docket Number: 2011-0048-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Big Lake
Payable Penalty Amount:	Three Thousand One Hundred Fifty Dollars (\$3,150)
SEP Amount:	Three Thousand One Hundred Fifty Dollars (\$3,150)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance
Location of SEP:	Reagan County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

City of Big Lake
Agreed Order - Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development
Areas, Inc.
1716 Briarcrest Drive, Suite 507
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

City of Big Lake
Agreed Order – Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.