

Executive Summary – Enforcement Matter – Case No. 41118
Hamilton Custom Service, Inc.
RN103155198
Docket No. 2011-0216-SLG-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
SLG

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
903 380 Bypass, Graham, Young County

Type of Operation:
sludge transporting business

Other Significant Matters:

| | |
|---|-------------------------------|
| Additional Pending Enforcement Actions: | None |
| Past-Due Penalties: | None |
| Past-Due Fees: | \$639.57 (Acct. No. 0801409H) |
| Other: | None |
| Interested Third-Parties: | None |

Texas Register Publication Date: November 18, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,064

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$12,064

Compliance History Classifications:

Person/CN – Average
Site/RN – Average by Default

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: November 30, 2010; February 18, 2011; April 7, 2011
Date(s) of NOV(s): N/A
Date(s) of NOE(s): December 29, 2010; April 29, 2011

Violation Information

1. Failed to deposit wastes at a facility with written authorization by permit or registration, issued by the Executive Director, to receive wastes [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 312.143].
2. Failed to renew a sludge transporter registration before continuing to transport waste [30 TEX. ADMIN. CODE § 312.142(d)].
3. Failed to pay Waste Management Sludge Haulers fee and associated late fees [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 312.9].
4. Failed to ensure that waste stored in a mobile closed container is stored for less than four days [30 TEX. ADMIN. CODE § 312.147(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Immediately:
 - a. Cease transporting waste until the proper transporter registration is obtained;
 - b. Cease disposing of waste at unauthorized facilities; and
 - c. Properly dispose of the temporarily stored waste from the mobile closed container at an authorized location.
2. Within 30 days, pay all outstanding Waste Management Sludge Haulers fee, including any associated penalties and interest.
3. Submit written certification to demonstrate compliance:
 - a. Within 15 days for Technical Requirement No. 1.
 - b. Within 45 days for Technical Requirement No. 2.

Litigation Information

Date Petition(s) Filed: June 6, 2011; August 3, 2011
Date(s) Green Card(s) Signed: June 8, 2011; Unclaimed
Date(s) Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Xavier Guerra, Litigation Division, (210) 403-4016
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: Marty Hott, Water Enforcement Section, (512) 239-2587
TCEQ Regional Contact: Mike Taylor, Abilene Regional Office, (325) 698-6125
Respondent: H. L. Hamilton, President, Hamilton Services, Inc., 1215 Loving Highway, Graham, Texas 76450-1716
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|------------|------------------|-------------|----------------|--|
| DATES | Assigned | 5-Jan-2011 | Screening | 28-Jan-2011 | EPA Due | |
| | PCW | 5-May-2011 | | | | |

| | | | | | | |
|--|-------------------------------|---------------------------|-------|--|--|--|
| RESPONDENT/FACILITY INFORMATION | | | | | | |
| Respondent | HAMILTON CUSTOM SERVICE, INC. | | | | | |
| Reg. Ent. Ref. No. | RN103155198 | | | | | |
| Facility/Site Region | 3-Abilene | Major/Minor Source | Minor | | | |

| | | | | | | |
|--|-----------------|------------------------------|--------------------|--|--|--|
| CASE INFORMATION | | | | | | |
| Enf./Case ID No. | 41118 | No. of Violations | 3 | | | |
| Docket No. | 2011-0216-SLG-E | Order Type | 1660 | | | |
| Media Program(s) | Water Quality | Government/Non-Profit | No | | | |
| Multi-Media | | Enf. Coordinator | Marty Hott | | | |
| | | EC's Team | Enforcement Team 1 | | | |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 | | | |

Penalty Calculation Section

| | | |
|---|-------------------|----------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$10,000 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|------------------|--------------------------------|-----|
| Compliance History | 0.0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|------------------|--------------------------------|-----|

Notes: No adjustment for compliance history.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| 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: \$64
 Approx. Cost of Compliance: \$55
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$10,000 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|-------------------|------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.6% | Adjustment | \$64 |
|---|------|-------------------|------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for the recovery of avoided cost of compliance associated with Violation Nos. 1 and 2.

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$10,064 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$10,064 |
|-----------------------------------|-------------------------------|----------|

| | | | |
|-----------------|----------------|-------------------|-----|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|-----|

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

Notes: Deferral not offered for non-expedited settlement.

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$10,064 |
|------------------------|----------|

Screening Date 28-Jan-2011

Docket No. 2011-0216-SLG-E

PCW

Respondent HAMILTON CUSTOM SERVICE, INC.

Policy Revision 2 (September 2002)

Case ID No. 41118

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103155198

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 28-Jan-2011

Docket No. 2011-0216-SLG-E

PCW

Respondent HAMILTON CUSTOM SERVICE, INC.

Policy Revision 2 (September 2002)

Case ID No. 41118

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103155198

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 312.143

Violation Description Failed to deposit wastes at a facility with written authorization by permit or registration issued by the executive director to receive wastes, as documented during an investigation conducted on November 30, 2010. Specifically, the Respondent discharged waste, primarily septic tank waste, onto company-owned property which was not authorized to receive the waste.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

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

Percent 25%

>> Programmatic Matrix

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

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

59 Number of violation days

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

mark only one with an x

Violation Base Penalty \$5,000

Two monthly events are recommended from the investigation date (November 30, 2010) to the screening date (January 28, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$5,032

This violation Final Assessed Penalty (adjusted for limits) \$5,032

Economic Benefit Worksheet

Respondent HAMILTON CUSTOM SERVICE, INC.
Case ID No. 41118
Req. Ent. Reference No. RN103155198
Media Water Quality
Violation No. 1

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

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

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Avoided Costs

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

| | | | | | | | |
|-------------------------------|------|-------------|------------|------|-----|------|------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$25 | 30-Nov-2010 | 3-Feb-2011 | 1.10 | \$1 | \$25 | \$26 |

Notes for AVOIDED costs

Estimated costs avoided by disposing of waste at an unauthorized site, based on \$25 per load of septic sludge charged by the City of Graham Wastewater Treatment Plant (estimate of 1,000 gallons of waste disposed). Date required is the investigation date. Final date is the screening date.

Approx. Cost of Compliance \$25

TOTAL \$26

Screening Date 28-Jan-2011

Docket No. 2011-0216-SLG-E

PCW

Respondent HAMILTON CUSTOM SERVICE, INC.

Policy Revision 2 (September 2002)

Case ID No. 41118

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103155198

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 312.142(d)

Violation Description Failed to renew a sludge transporter registration before continuing to transport waste, as documented during an investigation conducted on November 30, 2010. Specifically, Sludge Transporter Registration ID No. 21113 expired on August 31, 2006 and the Respondent continued to transport waste after the registration expired.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%).

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 5 1611 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$5,000

Five annual events are recommended from the date the registration expired (August 31, 2006) to the screening date (January 28, 2011).

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$38

Violation Final Penalty Total \$5,032

This violation Final Assessed Penalty (adjusted for limits) \$5,032

Economic Benefit Worksheet

Respondent HAMILTON CUSTOM SERVICE, INC.
Case ID No. 41118
Req. Ent. Reference No. RN103155198
Media Water Quality
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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Avoided Costs

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

| | | | | | | | |
|-------------------------------|------|-------------|-------------|------|-----|------|------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$30 | 31-Aug-2006 | 30-Nov-2010 | 5.17 | \$8 | \$30 | \$38 |

Notes for AVOIDED costs

Avoided cost to apply for and receive authorization to transport waste and authorize vehicles. Cost includes a ten dollar authorization sticker fee per vehicle (due every two years by August 31). Date required is the date the registration expired and final date is the date of the investigation.

Approx. Cost of Compliance \$30

TOTAL \$38

Screening Date 28-Jan-2011

Docket No. 2011-0216-SLG-E

PCW

Respondent HAMILTON CUSTOM SERVICE, INC.

Policy Revision 2 (September 2002)

Case ID No. 41118

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103155198

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 312.9 and Tex. Water Code § 5.702

Violation Description Failed to pay the fiscal year 2007 TCEQ Waste Management Sludge Haulers fee and associated late fees for Account No. 0801409H, as documented during a record review conducted on February 18, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events [] Number of violation days []

mark only one with an x

- daily []
weekly []
monthly []
quarterly []
semiannual []
annual []
single event []

Violation Base Penalty \$0

No penalty is assessed for this violation, as penalty and interest will be assessed in the next billing cycle.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

Notes

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

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent HAMILTON CUSTOM SERVICE, INC.
Case ID No. 41118
Req. Ent. Reference No. RN103155198
Media Water Quality
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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

N/A

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

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 2-May-2011 | Screening | 18-May-2011 | EPA Due | |
| | PCW | 18-May-2011 | | | | |

| | | | | | | |
|--|-------------------------------|---------------------------|-------|--|--|--|
| RESPONDENT/FACILITY INFORMATION | | | | | | |
| Respondent | HAMILTON CUSTOM SERVICE, INC. | | | | | |
| Reg. Ent. Ref. No. | RN103155198 | | | | | |
| Facility/Site Region | 3-Abilene | Major/Minor Source | Minor | | | |

| | | | | | | |
|--|-----------------|------------------------------|--------------------|--|--|--|
| CASE INFORMATION | | | | | | |
| Enf./Case ID No. | 41118 | No. of Violations | 1 | | | |
| Docket No. | 2011-0216-SLG-E | Order Type | 1660 | | | |
| Media Program(s) | Water Quality | Government/Non-Profit | No | | | |
| Multi-Media | | Enf. Coordinator | Marty Hott | | | |
| | | EC's Team | Enforcement Team 1 | | | |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 | | | |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$2,000 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|------------------|--------------------------------|-----|
| Compliance History | 0.0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|------------------|--------------------------------|-----|

Notes: No adjustment for compliance history.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| 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: \$1
 Approx. Cost of Compliance: \$25
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$2,000 |
|-----------------------------|-----------------------|---------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$2,000

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$2,000 |
|-----------------------------------|-------------------------------|---------|

| | | | |
|-----------------|----------------|-------------------|-----|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|-----|

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

Notes:

Deferral not offered for non-expedited settlement.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$2,000 |
|------------------------|---------|

Screening Date 18-May-2011

Docket No. 2011-0216-SLG-E

PCW

Respondent HAMILTON CUSTOM SERVICE, INC.

Policy Revision 2 (September 2002)

Case ID No. 41118

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103155198

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 18-May-2011

Docket No. 2011-0216-SLG-E

PCW

Respondent HAMILTON CUSTOM SERVICE, INC.

Policy Revision 2 (September 2002)

Case ID No. 41118

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103155198

Media [Statute] Water Quality

Enf. Coordinator Marty Hott

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 312.147(a)

Violation Description Failed to ensure that waste stored in a mobile closed container is stored for less than four days, as documented during an investigation conducted on April 7, 2011. Specifically, at the time of the investigation, the Respondent had been storing a load of sludge in the vacuum truck's tank since January 31, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> 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 this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 103 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are recommended from the date by which the load should have been removed from the truck's tank (February 4, 2011) to the screening date (May 18, 2011).

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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,000

This violation Final Assessed Penalty (adjusted for limits) \$2,000

Economic Benefit Worksheet

Respondent HAMILTON CUSTOM SERVICE, INC.
Case ID No. 41118
Req. Ent. Reference No. RN103155198
Media Water Quality
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 | \$25 | 4-Feb-2011 | 31-Oct-2011 | 0.74 | \$1 | n/a | \$1 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Actual cost charged by the City of Graham Wastewater Treatment Plant to properly dispose of waste at their plant (\$25 per load of septic sludge). Date required is the date by which the load of waste should have been removed from the truck's tank and final date is the anticipated 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

\$25

TOTAL

\$1

Compliance History

Customer/Respondent/Owner-Operator: CN601689243 HAMILTON CUSTOM SERVICE, INC. Classification: AVERAGE Rating: 3.01

Regulated Entity: RN103155198 HAMILTON CUSTOM SERVICE Classification: AVERAGE BY DEFAULT Site Rating: 3.01

ID Number(s):

Location: 903 380 BYPASS, YOUNG COUNTY, TEXAS

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: January 28, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 28, 2006 to January 28, 2011

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

Name: Marty Hott Phone: (512) 239-2587

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.)
N/A
 - 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

Compliance History

Customer/Respondent/Owner-Operator: CN601689243 HAMILTON CUSTOM SERVICE, INC. Classification: AVERAGE Rating: 3.01

Regulated Entity: RN103155198 HAMILTON CUSTOM SERVICE Classification: AVERAGE Site Rating: 3.01
BY DEFAULT

ID Number(s):

Location: 903 380 BYPASS, YOUNG COUNTY, TEXAS

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: May 19, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 19, 2006 to May 19, 2011

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

Name: Marty Hott Phone: (512) 239-2587

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.)
N/A
 - 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HAMILTON CUSTOM SERVICE,
INC.;
RN103155198**

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

DEFAULT ORDER

DOCKET NO. 2011-0216-SLG-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7 and 26, 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 HAMILTON CUSTOM SERVICE, INC. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a sludge transporting business located at 903 380 Bypass in Graham, Young County, Texas (the "Facility"). Respondent has discharged waste into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. During an investigation conducted on November 30, 2010, a TCEQ Abilene Regional Office investigator documented that Respondent:
 - a. Failed to deposit wastes at a facility with written authorization by permit or registration, issued by the Executive Director, to receive wastes. Specifically, Respondent disposed of waste, primarily septic tank waste, at an unauthorized site; and
 - b. Failed to renew a sludge transporter registration before continuing to transport waste. Specifically, Sludge Transporter Registration ID No. 21113 expired on August 31, 2006, and Respondent continued to transport waste after the registration expired.
3. During a record review conducted on February 18, 2011, TCEQ Central Office staff documented that Respondent failed to pay the fiscal year 2007 TCEQ Waste Management Sludge Haulers fee and associated late fees for Account No. 0801409H.

4. During an investigation conducted on April 7, 2011, a TCEQ Abilene Regional Office investigator documented that Respondent failed to ensure that waste stored in a mobile closed container is stored for less than four days. Specifically, Respondent had been storing a load of sludge in a vacuum truck's tank since January 31, 2011.
5. Respondent received notice of the violations alleged in Finding of Fact No. 2 on or about January 3, 2011. Respondent received notice of the violation alleged in Finding of Fact No. 3 on or about August 8, 2011. Respondent received notice of the violation alleged in Finding of Fact No. 4 on or about May 4, 2011.
6. 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 HAMILTON CUSTOM SERVICE, INC." (the "EDPRP") in the TCEQ Chief Clerk's office on June 6, 2011.
7. By letter dated June 6, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on June 8, 2011, as evidenced by the signature on the card.
8. The Executive Director filed the "Executive Director's First Amended 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 HAMILTON CUSTOM SERVICE, INC." (the "EDFARP") in the TCEQ Chief Clerk's office on August 3, 2011.
9. By letter dated August 3, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. The United States Postal Service returned the EDFARP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDFARP.
10. More than 20 days have elapsed since Respondent received notice of the EDPRP and the EDFARP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to deposit wastes at a facility with written authorization by permit or registration, issued by the Executive Director, to receive wastes, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 312.143.

3. As evidenced by Finding of Fact No. 2.b., Respondent failed to renew a sludge transporter registration before continuing to transport waste, in violation of 30 TEX. ADMIN. CODE § 312.142(d).
4. As evidenced by Finding of Fact No. 3., Respondent failed to pay the fiscal year 2007 TCEQ Waste Management Sludge Haulers fee and associated late fees for Account No. 0801409H, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 312.9.
5. As evidenced by Finding of Fact No. 4., Respondent failed to ensure that waste stored in a mobile closed container is stored for less than four days, in violation of 30 TEX. ADMIN. CODE § 312.147(a).
6. As evidenced by Findings of Fact Nos. 6 and 7, 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).
7. As evidenced by Findings of Fact Nos. 8 and 9, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
8. As evidenced by Finding of Fact No. 10, 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.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of twelve thousand sixty-four dollars (\$12,064.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. 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 twelve thousand sixty-four dollars (\$12,064.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: HAMILTON CUSTOM SERVICE, INC.; Docket No. 2011-0216-SLG-E" to:

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

3. Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, Respondent shall:
 - i. Cease transporting waste until the proper transporter registration is obtained, in accordance with 30 TEX. ADMIN. CODE § 312.142;
 - ii. Cease disposing of waste at unauthorized facilities; and
 - iii. Properly dispose of the temporarily stored waste from the mobile closed container at an authorized location, in accordance with 30 TEX. ADMIN. CODE § 312.147.
- b. Within 15 days after the effective date of this Order, Respondent shall submit written certification of compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iii., in accordance with Ordering Provision No. 3.e. below.
- c. Within 30 days after the effective date of this Order, Respondent shall pay the outstanding fiscal year 2007 Waste Management Sludge Haulers fee, including any associated penalties and interest, for Account No. 0801409H with the notation, "HAMILTON CUSTOM SERVICE, INC., TCEQ Account Number 0801409H," 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
- d. Within 45 days after the effective date of this Order, Respondent shall submit written certification of compliance with Ordering Provision No. 3.c., in accordance with Ordering Provision No. 3.e. below.
- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Mike Taylor Waste Section Manager
Texas Commission on Environmental Quality
Abilene Regional Office
1977 Industrial Boulevard
Abilene, Texas 79602-7833

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 Facility operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF XAVIER GUERRA

STATE OF TEXAS

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COUNTY OF BEXAR

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"My name is Xavier Guerra. 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 HAMILTON CUSTOM SERVICE, INC." (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 6, 2011.

The EDPRP was mailed to Respondent's last known address on June 6, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on June 8, 2011, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended 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 HAMILTON CUSTOM SERVICE, INC." (the "EDFARP") was filed in the TCEQ Chief Clerk's office on August 3, 2011.

The EDFARP was mailed to Respondent's last known address on August 3, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDFARP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

Xavier Guerra

Xavier Guerra, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 21st day of October, A.D. 2011.

[Signature]
Notary Signature

