

Executive Summary – Enforcement Matter – Case No. 40230
Adam G. Lozano and Hector C. Ramos
RN105931448
Docket No. 2010-1359-MSW-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MSW

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

South Highway 16, at Schuettig Road, Poteet, Atascosa County

Type of Operation:

unauthorized municipal solid waste disposal site

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: None

Texas Register Publication Date: March 16, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$15,000

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$650

Total Due to General Revenue: \$14,350

Payment Plan: 35 payments of \$410 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Not yet rated (Both Respondents)

Site/RN – Not yet rated

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): April 21, 2010
Complaint Information: Complaint alleged illegal dumping at the site.
Date(s) of Investigation: May 28, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): August 2, 2010

Violation Information

Failed to prevent the unauthorized disposal of MSW (approx. 16,000 cu/yd of various types of MSW, including construction and demolition debris) [30 TEX. ADMIN. CODE § 330.15(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately, cease accepting/disposing of additional unauthorized MSW;
2. Within 90 days, submit a closure plan that includes the closure performance standard to be achieved. The closure plan options are:
 - a. Either, closure without physical controls. This closure option includes:
 - i. Removing all MSW; and
 - ii. Disposing of the MSW at an authorized facility.
 - b. Or, closure with inert waste in place. This closure option includes:
 - i. Performing a waste evaluation to determine whether Class III type wastes are present and may remain in place after closure; and
 - ii. Removing all non-inert MSW and disposing of the MSW at an authorized facility.
3. The closure plans under Technical Requirement No. 2 shall, at a minimum, include:
 - a. A preliminary closure report that includes an implementation schedule for the proposed closure activities; and
 - b. Proposed release assessment activities to be performed to determine whether a release has occurred (i.e., sampling and chemical analyses of environmental media). Release assessments shall be conducted in accordance with the Texas Risk Reduction Program ("TRRP").
4. Within 105 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 2 and 3
5. Respondents shall initiate closure activities under Technical Requirement No. 2 no later than 30 days after the date on which the TCEQ Corrective Action Program provides Respondents with written approval of the closure plan.
6. The closure reports referenced in Technical Requirements Nos. 2, 7 and 8 shall be prepared in accordance 30 TEX. ADMIN. CODE § 335.8 and shall include:

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- a. A release determination/assessment;
 - b. Certification that unacceptable risk to human health or the environment no longer exists;
 - c. A description of closure activities performed; and
 - d. Either a description of release remediation activities and placement of physical/institutional controls (including a post closure plan, if necessary), or certification that further closure/remediation activities are no longer necessary.
7. If Respondents elect to perform the closure plan set forth in Technical Requirement No. 2.a.: Within 18 months (545 days), submit a complete closure report to the Remediation Division Corrective Action Program, including written certification demonstrating compliance with Technical Requirements Nos. 2.a. and 6.
8. If Respondents elect to perform the closure plan set forth in Technical Requirement No. 2.b.: Within 36 months (1,095 days), submit a complete closure report to the Remediation Division Corrective Action Program, including written certification demonstrating compliance with Technical Requirements Nos. 2.b. and 6.

Litigation Information

Date Petition(s) Filed: February 15, 2011; September 29, 2011

Date Answer(s) Filed: March 2, 2011

SOAH Referral Date: April 4, 2011

Hearing Date(s):

Preliminary hearing: May 19, 2011

Evidentiary hearing: February 24, 2012 (scheduled)

Settlement Date: February 7, 2012

Contact Information

TCEQ Attorneys: Jim Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Clinton Sims, Enforcement Division, (512) 239-6933

TCEQ Regional Contact: Joel Anderson, San Antonio Regional Office, (210) 490-3096

Respondent: Adam G. Lozano, 9861 Trophy Oaks Drive, Garden Ridge, Texas 78266;
Hector C. Ramos, P.O. Box 837, Lytle, Texas 78052

Respondent's Attorney: Duncan C. Norton, Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900 Austin, Texas 78701
Attorney for Hector C. Ramos

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Aug-2010	Screening	17-Aug-2010	EPA Due	
	PCW	29-Nov-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Adam G. Lozano and Hector C. Ramos
Reg. Ent. Ref. No.	RN105931448
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40230	No. of Violations	1
Docket No.	2010-1359-MSW-E	Order Type	Findings
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Clinton Sims
		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	\$15,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for Compliance History.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$11,167
Approx. Cost of Compliance	\$241,185

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$15,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$15,000
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Screening Date 17-Aug-2010

Docket No. 2010-1359-MSW-E

PCW

Respondent Adam G. Lozano and Hector C. Ramos

Policy Revision 2 (September 2002)

Case ID No. 40230

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105931448

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

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	Yes	-5%

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 17-Aug-2010

Docket No. 2010-1359-MSW-E

PCW

Respondent Adam G. Lozano and Hector C. Ramos

Policy Revision 2 (September 2002)

Case ID No. 40230

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105931448

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 1

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

Violation Description Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 16,000 cubic yards of various MSW and construction and demolition debris were disposed of at the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	x				50%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.					0%

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 3 81 Number of violation days

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

Violation Base Penalty \$15,000

Three monthly events are recommended from the May 28, 2010 investigation date to the August 17, 2010 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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11,167

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent Adam G. Lozano and Hector C. Ramos
Case ID No. 40230
Req. Ent. Reference No. RN105931448
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	\$241,185	28-May-2010	1-May-2011	0.93	\$11,167	n/a	\$11,167
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the MSW. The Date Required is the investigation date and the Final Date is the expected compliance date.

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

\$241,185

TOTAL

\$11,167

Compliance History Report

Customer/Respondent/Owner-Operator: CN603674417 LOZANO, ADAM G. Classification: Rating:
 Regulated Entity: RN105931448 21.81 AC TRACT - S HWY 16 Classification: Site Rating:
 ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER UNA455130185
 Location: S HWY 16 AT SCHUETTIG RD IN POTEET, ATASCOSA COUNTY, TEXAS
 TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: August 17, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 17, 2005 to August 17, 2010

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

Name: Clinton Sims Phone: (512) 239-6933

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

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 Report

Customer/Respondent/Owner-Operator: CN603674383 RAMOS, HECTOR C. Classification: Rating:
 Regulated Entity: RN105931448 21.81 AC TRACT - S HWY 16 Classification: Site Rating:
 ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER UNA455130185
 Location: S HWY 16 AT SCHUETTIG RD IN POTEET, ATASCOSA COUNTY, TEXAS
 TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: August 17, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 17, 2005 to August 17, 2010

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

Name: Clinton Sims Phone: (512) 239-6933

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

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
ADAM G. LOZANO AND
HECTOR C. RAMOS;
RN105931448**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1359-MSW-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Adam G. Lozano ("Mr. Lozano") and Hector C. Ramos ("Mr. Ramos") (collectively "Respondents") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents presented this Agreed Order to the Commission.

Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondents.

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

FINDINGS OF FACT

1. Mr. Lozano owns the northern 11.247 acres and Mr. Ramos owns the southern 10.563 acres of a 21.81 acre unauthorized municipal solid waste disposal site located at South Highway 16 and Schuettig Road (CAD Property ID No. 11790) in Poteet, Atascosa County Texas (the "Site"). The Site involves the management and/or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on May 28, 2011, a TCEQ San Antonio Regional Office investigator documented that Respondents failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 16,000 cubic yards of various unauthorized MSW, including construction and demolition debris, was disposed at the Site.

3. Respondents received notice of the violation on or about August 7, 2010.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondents failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents 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.
4. An administrative penalty in the amount of fifteen thousand dollars (\$15,000.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondents paid six hundred fifty dollars (\$650.00) of the administrative penalty. The remaining amount of fourteen thousand three hundred fifty dollars (\$14,350.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of four hundred ten dollars (\$410.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondents' failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondents to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondents are assessed an administrative penalty as set forth in Conclusion of Law No. 4, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Adam G. Lozano and Hector G. Ramos, Docket No. 2010-1359-MSW-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

2. Respondents shall each undertake the following technical requirements on their respective portions of the Site:
 - a. Immediately upon the effective date of this Agreed Order, Respondents shall cease accepting/disposing of additional unauthorized MSW; and
 - b. Within 90 days after the effective date of this Agreed Order, Respondents shall submit a closure plan in accordance 30 TEX. ADMIN. CODE § 335.8 that includes the closure performance standard to be achieved. The closure plan options are:
 - i. Either, closure without physical controls. This closure option includes:
 - A. Removing all MSW; and
 - B. Disposing of the MSW at an authorized facility.
 - ii. Or, closure with inert waste in place. This closure option includes:
 - A. Performing a waste evaluation to determine whether Class III type wastes as defined in 30 TEX. ADMIN. CODE § 335.507 are present and may remain in place after closure; and
 - B. Removing all non-inert MSW and disposing of the MSW in accordance with 30 TEX. ADMIN. CODE ch. 330.
 - c. The closure plans under Ordering Provision No. 2.b. shall, at a minimum, include:
 - i. A preliminary closure report that includes an implementation schedule for the proposed closure activities; and
 - ii. Proposed release assessment activities to be performed to determine whether a release has occurred (i.e., sampling and chemical analyses of environmental media). Release assessments shall be conducted in accordance with 30 TEX. ADMIN. CODE § 350.2(h) of the Texas Risk Reduction Program ("TRRP").
 - d. The closure plans shall be submitted to:

Remediation Division, Corrective Action Program
Texas Commission on Environmental Quality, MC 127
P.O. Box 13088
Austin, Texas 78711-3088
 - e. Respondents shall initiate closure activities under Ordering Provision No. 2.b. no later than 30 days after the date on which the TCEQ Corrective Action Program provides Respondents with written approval of the closure plan.
 - f. Within 105 days after the effective date of this Agreed Order, Respondents shall submit written certification, in accordance with Ordering Provision No. 2.j., below, to demonstrate compliance with Ordering Provisions Nos. 2.a. through 2.c.ii.
 - g. The closure reports referenced in Ordering Provision No. 2.b. and required by Ordering Provisions No. 2.h. shall be prepared in accordance 30 TEX. ADMIN. CODE § 335.8 and shall include:
 - i. A release determination/assessment;
 - ii. Certification that unacceptable risk to human health or the environment no longer exists;

- iii. A description of closure activities performed; and
- iv. Either a description of release remediation activities and placement of physical/institutional controls (including a post closure plan, if necessary), or certification that further closure/remediation activities are no longer necessary.

The closure reports shall be submitted to the TCEQ Corrective Action Program at the address listed in Ordering Provision No. 2.d., above, with copies to:

Municipal Solid Waste Permits Section
Texas Commission on Environmental Quality, MC 124
P.O. Box 13088
Austin, Texas 78711-3088

- h. If Respondents elect to perform the closure plan set forth in Ordering Provision No. 2.b.i., Respondents shall, within 18 months (545 days) after the effective date of this Agreed Order, submit a complete closure report to the Remediation Division Corrective Action Program at the address listed in Ordering Provision No. 2.d. above. The closure report shall include written certification in accordance with Ordering Provision No. 2.j., below, and shall demonstrate compliance with Ordering Provisions Nos. 2.b.i. and 2.g. above.
- i. Or, if Respondents elect to perform the closure plan set forth in Ordering Provision No. 2.b.ii, Respondents shall, within 36 months (1,095 days) after the effective date of this Agreed Order, submit a complete closure report to the Remediation Division Corrective Action Program at the address listed in Ordering Provision No. 2.d. above. The closure report shall include written certification in accordance with Ordering Provision No. 2.j., below, and shall demonstrate compliance with Ordering Provisions Nos. 2.b.ii. and 2.g. above.
- j. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, technical reports, 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."

Respondents 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:

Waste Section Manager
Texas Commission on Environmental Quality
TCEQ San Antonio Regional Office
14250 Judson Road
San Antonio, Texas 78233-4480

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
5. If Respondents fail 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, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director.
7. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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.

11. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondents, or three days after the date on which the Commission mails notice of this Agreed Order to Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Adam G. Lozano and Hector C. Ramos
Docket No. 2010-1359-MSW-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/16/2012

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Respondents, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Signature - Adam G. Lozano

Date

Hector C. Ramos

2-07-12

Signature Hector C. Ramos

Date

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/16/2012

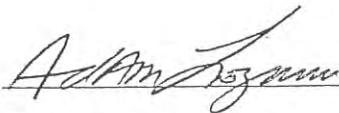
Date

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- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Adam G. Lozano

2-7-12

Date

Signature Hector C. Ramos

Date