

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 42084  
Cowtown Excavating Company  
RN102273950  
Docket No. 2011-1207-MSW-E

**Order Type:**

Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MSW

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

10031 Hicks Field Road, Saginaw, Tarrant County

**Type of Operation:**

unauthorized mulching facility

**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:** July 6, 2012

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$12,500

**Total Paid to General Revenue:** \$12,500

**Total Due to General Revenue:** \$0

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

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

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**Investigation Information**

**Complaint Date(s):** January 19, 2011

Complaint Information: General inquiry regarding whether or not the facility had proper authorization and financial assurance for operations at the site.

**Date(s) of Investigation:** February 16, 2011

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** June 15, 2011

**Cowtown Excavating Company**  
RN102273950  
Docket No. 2011-1207-MSW-E

**Violation Information**

Failed to prevent the unauthorized processing, storage and/or management of approximately 39,907 cubic yards of wood material at the Facility [30 TEX. ADMIN. CODE § 328.5(b)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. Submitted a written cost estimate showing the cost of hiring a third party to close the Facility by disposing of all processed and unprocessed wood materials on or about April 12, 2011;
2. Submitted a fire plan to the ED on or about April 12, 2011, and has made it available to local fire officials; and
3. Submitted a complete Notice of Intent to Operate a Recycling Facility (“NOI”) and secured financial assurance for closure of the Facility on or about September 6, 2011.

**Technical Requirements:**

1. Within 90 days, submit documentation demonstrating that the wood material at the Facility is potentially recyclable and has an economically feasible means of being recycled, and that at least 50% by weight or volume of the wood material accumulated at the Facility for recycling is recycled or transferred to a different site for reuse, recycling or disposal.
2. Or, in lieu of Technical Requirement No. 1, within 105 days:
  - a. Cease accepting wood material at the Facility; and
  - b. Dispose and/or recycle all processed and unprocessed wood materials at an authorized facility.
3. Within 105 days, submit written certification to demonstrate compliance with either Technical Requirement No. 1 or Technical Requirement No. 2, as applicable.

**Litigation Information**

**Date Petition(s) Filed:** September 29, 2011; May 15, 2012

**Date Answer(s) Filed:** October 18, 2011

**SOAH Referral Date:** November 23, 2011

**Hearing Date(s):**

Preliminary hearing: January 12, 2012

Evidentiary hearing: June 20, 2012 (scheduled)

**Settlement Date:** June 7, 2012

**Contact Information**

**TCEQ Attorneys:** Kari L. Gilbreth, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Amy Swanholm, Public Interest Counsel, (512) 239-6363

**TCEQ SEP Coordinator:** N/A

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

**TCEQ Regional Contact:** Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5800

**Respondent:** Dennis W. Hall, President, Cowtown Excavating Company, 201 N.E. 29th St., Fort Worth, Texas 76106

**Respondent's Attorney:** Helen Gilbert, 2203 Greenlee Drive, Austin, Texas 78703



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	27-Jun-2011	<b>Screening</b>	14-Jul-2011	<b>EPA Due</b>	
	<b>PCW</b>	24-Apr-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>						
<b>Respondent</b>	Cowtown Excavating Company					
<b>Reg. Ent. Ref. No.</b>	RN102273950					
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor			

<b>CASE INFORMATION</b>						
<b>Enf./Case ID No.</b>	42084	<b>No. of Violations</b>	1			
<b>Docket No.</b>	2011-1207-MSW-E	<b>Order Type</b>	1660			
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No			
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Clinton Sims			
		<b>EC's Team</b>	Enforcement Team 6			
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000			

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$4,625
Approx. Cost of Compliance	\$80,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$12,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$12,500

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$12,500
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$12,500
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**Screening Date** 14-Jul-2011

**Docket No.** 2011-1207-MSW-E

**PCW**

**Respondent** Cowtown Excavating Company

*Policy Revision 2 (September 2002)*

**Case ID No.** 42084

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN102273950

**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	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 14-Jul-2011

Docket No. 2011-1207-MSW-E

PCW

Respondent Cowtown Excavating Company

Policy Revision 2 (September 2002)

Case ID No. 42084

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102273950

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 1

Rule Cite(s) Tex. Admin. Code § 328.5(b)

Violation Description Failed to prevent the unauthorized disposal, processing, storage and/or management of wood materials. Specifically, approximately 39,907 cubic yards of wood material was at the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 5 148 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$12,500

Five monthly events are recommended based on documentation of the violation during the February 16, 2011 investigation to the July 14, 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 \$12,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,625

Violation Final Penalty Total \$12,500

This violation Final Assessed Penalty (adjusted for limits) \$12,500

## Economic Benefit Worksheet

**Respondent** Cowtown Excavating Company  
**Case ID No.** 42084  
**Req. Ent. Reference No.** RN102273950  
**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	\$80,000	16-Feb-2011	13-Apr-2012	1.16	\$4,625	n/a	\$4,625
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 at an authorized facility. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$80,000

**TOTAL**

\$4,625

# Compliance History

Customer/Respondent/Owner-Operator: CN600483150 Cowtown Excavating Company Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN102273950 Cowtown Excavating Co Classification: AVERAGE BY DEFAULT Site Rating: 3.01  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 73909  
STORMWATER PERMIT TXR05N174  
Location: 10031 HICKS FIELD RD, SAGINAW, TX, 76179  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: July 14, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 14, 2006 to July 14, 2011  
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
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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
COWTOWN EXCAVATING  
COMPANY;  
RN102273950**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2011-1207-MSW-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Cowtown Excavating Company ("Respondent") 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 Respondent, represented by Helen S. Gilbert, together stipulate that:

1. Respondent owns and operates an unauthorized mulching facility located at 10031 Hicks Field Road in Saginaw, Tarrant County, Texas (the "Facility"). The Facility involves the unauthorized processing, storage and/or management of wood material as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of twelve thousand five hundred dollars (\$12,500.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid twelve thousand five hundred dollars (\$12,500.00) of the administrative penalty.
6. 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.

7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director ("ED") recognizes that Respondent implemented the following corrective measures at the Facility:
  - a. Respondent submitted a written cost estimate showing the cost of hiring a third party to close the Facility by disposing of all processed and unprocessed wood materials on or about April 12, 2011;
  - b. Respondent submitted a fire plan to the ED on or about April 12, 2011 and has made it available to local fire officials; and
  - c. Respondent submitted a complete Notice of Intent to Operate a Recycling Facility ("NOI") and secured financial assurance for closure of the Facility on or about September 6, 2011.
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 Respondent has not complied with one or more of the terms or conditions contained 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**

1. During an investigation conducted on February 16, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent failed to prevent the unauthorized processing, storage and/or management of approximately 39,907 cubic yards of wood material at the Facility, in violation of 30 TEX. ADMIN. CODE § 328.5(b).
2. Respondent received notice of the violation on or about June 20, 2011.

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
  - a. Within 90 days after the effective date of this Agreed Order, Respondent shall submit documentation demonstrating that the wood material at the Facility is potentially recyclable and has an economically feasible means of being recycled, and that at least 50% by weight or volume of the wood material accumulated at the Facility for recycling is recycled or transferred to a different site for reuse, recycling or disposal, in accordance with 30 TEX. ADMIN. CODE §§ 328.4(b) and 328.5(f).
  - b. Or, in lieu of Ordering Provision No. 2.a., within 105 days after the effective date of this Agreed Order, Respondent shall:
    - i. Cease accepting wood material at the Facility; and
    - ii. Dispose and/or recycle all processed and unprocessed wood materials at an authorized facility.
  - c. Within 105 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with either Ordering Provision No. 2.a. or Ordering Provision No. 2.b., as applicable. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance and be notarized by a State of Texas Notary Public to 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 and supporting documentation 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:

Sam Barrett, Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

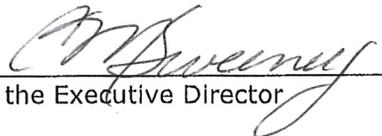
3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed 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.
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 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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. 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 Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

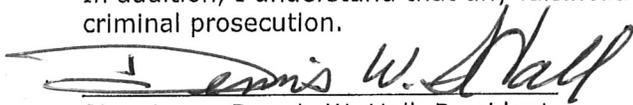
July 9 2012  
Date

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 Cowtown Excavating Company, 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 Agreed 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 - Dennis W. Hall, President  
Cowtown Excavating Company

06/07/2012  
Date