

Executive Summary – Enforcement Matter – Case No. 43778

Duval County

RN101921286

Docket No. 2012-0597-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

No

Location(s) Where Violation(s) Occurred:

Duval County Landfill, located about two miles northwest of San Diego on County Road 109,
Duval County

Type of Operation:

Landfill

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 21, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,915

Amount Deferred for Expedited Settlement: \$1,783

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP (“A”) Conditional Offset: \$3,566

Name of SEP: Texas Association of Resource Conservation & Development Areas, Inc.
- Cleanup of Unauthorized Trash Dumps

SEP (“B”) Conditional Offset: \$3,566

Name of SEP: Texas Association of Resource Conservation & Development Areas, Inc.
- Household Hazardous Waste Clean-Up

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 43778

Duval County

RN101921286

Docket No. 2012-0597-MSW-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 7, 2011 and February 14, 2012

Date(s) of NOE(s): February 29, 2012

Violation Information

1. Failed to provide adequate weekly cover. Specifically, significant amounts of waste were left exposed in previously worked areas of the Facility [30 TEX. ADMIN. CODE § 330.165(b) and municipal solid waste (“MSW”) Permit No. 1481, Site Operating Plan (“SOP”), Section X.].
2. Failed to install Facility boundary markers. Specifically, boundary markers in the corners of the Facility were not painted black and were greater than 300 feet apart [30 TEX. ADMIN. CODE § 330.143(b)(1)(A)].
3. Failed to have at least one individual licensed to supervise or manage a MSW facility. Specifically, the Facility’s operator did not have a valid Class A MSW landfill operator license [30 TEX. ADMIN. CODE § 30.201(b) and MSW Permit No. 1481, SOP, Section II.].
4. Failed to provide adequate intermediate cover in all areas which have received waste but will be inactive for longer than 180 days. Specifically, the northern-most cell at the Facility had significant erosion and exposed waste and an inactive area adjacent to the working face also had exposed waste [30 TEX. ADMIN. CODE § 330.165(c) and MSW Permit No. 1481, SOP, Section X.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facility:

- a. Began maintaining adequate weekly and intermediate cover at the Facility on March 7, 2012; and
- b. Properly installed black boundary markers in the corners of the Facility and at distances of less than 300 feet apart on April 12, 2012.

Technical Requirements:

1. The Order will require Respondent to implement and complete two Supplemental Environmental Projects (“SEPs”). (See SEP Attachments A and B)
2. The Order will also require Respondent to:

Executive Summary – Enforcement Matter – Case No. 43778

Duval County

RN101921286

Docket No. 2012-0597-MSW-E

- a. Within 30 days, ensure at least one individual at the Facility obtains the proper MSW operator license; and
- b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Keith Frank, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-1203; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: The Honorable Abel Aragon, County Judge, Duval County, P.O. Box 189, San Diego, Texas 78384

Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-0597-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

The Respondent: Duval County

Penalty Amount: Seven Thousand One Hundred Thirty-Two Dollars (\$7,132)

SEP Offset Amount: Three Thousand Five Hundred Sixty-Six Dollars (\$3,566)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D")

Project Name: *Cleanup of Unauthorized Trash Dumps*

Location of SEP: Duval County

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

1. Project Description

a. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") to be used for the Cleanup of Unauthorized Trash Dumps program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and county government officials and private entities to clean up sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be identified, where there is no preexisting obligation to clean up the site by the owner or the government, and where reasonable efforts have already been taken to prevent the dumping. SEP offset amount may be used for the direct cost of collection and disposal or recycling of debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

The projects will be administered in accordance with federal, state, and local environmental laws and regulations. Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will help rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects. This SEP may also provide a discernible environmental benefit by providing for the proper disposal of tires that may be dumped in trash dumps and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

In the event of incomplete performance, Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

Attachment B
Docket Number: 2012-0597-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Duval County
Payable Penalty Amount:	Seven Thousand One Hundred Thirty-Two Dollars (\$7,132)
SEP Amount:	Three Thousand Five Hundred Sixty-Six Dollars (\$3,566)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. (RC&D) - Household Hazardous Waste Clean-Up
Location of SEP:	Duval County

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

1. Project Description

A. Project

Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

Duval County
Agreed Order – Attachment B

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

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

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Mar-2012	Screening	13-Mar-2012	EPA Due	
	PCW	31-May-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Duval County	
Reg. Ent. Ref. No.	RN101921286	
Facility/Site Region	16-Laredo	Major/Minor Source
		Minor

CASE INFORMATION

Enf./Case ID No.	43778	No. of Violations	2
Docket No.	2012-0597-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one order with denial of liability.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 13-Mar-2012

Docket No. 2012-0597-MSW-E

PCW

Respondent Duval County

Policy Revision 2 (September 2002)

Case ID No. 43778

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101921286

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

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 (number of NOVs meeting criteria)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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) 32%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 32%

Screening Date 13-Mar-2012

Docket No. 2012-0597-MSW-E

PCW

Respondent Duval County

Policy Revision 2 (September 2002)

Case ID No. 43778

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101921286

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.165(b) and Municipal Solid Waste Permit No. 1481, Site Operating Plan, Section X.

Violation Description Failed to provide adequate weekly cover. Specifically, significant amounts of waste were left exposed in previously worked areas of the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 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 the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

22 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the February 14, 2012 investigation to the March 7, 2012 date of compliance.

Good Faith Efforts to Comply

10.0% Reduction

\$100

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

Notes The Respondent came into compliance on March 7, 2012, after the Notice of Enforcement ("NOE") dated February 29, 2012.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$113

Violation Final Penalty Total \$1,220

This violation Final Assessed Penalty (adjusted for limits) \$1,220

Economic Benefit Worksheet

Respondent Duval County
Case ID No. 43778
Reg. Ent. Reference No. RN101921286
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	7-Jun-2011	7-Mar-2012	0.75	\$113	n/a	\$113

Notes for DELAYED costs

Estimated cost to provide adequate weekly cover. Date Required is the initial investigation date. Final Date is the 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 \$3,000

TOTAL \$113

Screening Date 13-Mar-2012

Docket No. 2012-0597-MSW-E

PCW

Respondent Duval County

Policy Revision 2 (September 2002)

Case ID No. 43778

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101921286

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.143(b)(1)(A)

Violation Description Failed to install Facility boundary markers. Specifically, boundary markers in the corners of the Facility were not painted black and were greater than 300 feet apart.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

28 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$100

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

Notes

The Respondent came into compliance on April 12, 2012, after the NOE dated February 29, 2012.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$59

Violation Final Penalty Total \$1,220

This violation Final Assessed Penalty (adjusted for limits) \$1,220

Economic Benefit Worksheet

Respondent Duval County
Case ID No. 43778
Reg. Ent. Reference No. RN101921286
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,000	7-Jun-2011	12-Apr-2012	0.85	\$3	\$57	\$59
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: Estimated cost to properly install boundary markers at the Facility. Date Required is the initial investigation date. Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$1,000	TOTAL	\$59
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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	5-Mar-2012	Screening	13-Mar-2012	EPA Due	
	PCW	31-May-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	Duval County
Reg. Ent. Ref. No.	RN101921286
Facility/Site Region	16-Laredo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	43778	No. of Violations	2
Docket No.	2012-0597-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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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	32.0% Enhancement	Subtotals 2, 3, & 7	\$1,600
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Notes: Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one order with denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$125
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$509
Approx. Cost of Compliance	\$3,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,475
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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	\$6,475
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,475
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,295
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$5,180
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Screening Date 13-Mar-2012

Docket No. 2012-0597-MSW-E

PCW

Respondent Duval County

Policy Revision 3 (September 2011)

Case ID No. 43778

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101921286

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

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>)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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) 32%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations, one NOV with dissimilar violations, and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 32%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 32%

Screening Date 13-Mar-2012

Docket No. 2012-0597-MSW-E

PCW

Respondent Duval County

Policy Revision 3 (September 2011)

Case ID No. 43778

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101921286

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 30.201(b) and Municipal Solid Waste ("MSW") Permit No. 1481, Site Operating Plan ("SOP"), Section II.

Violation Description Failed to have at least one individual licensed to supervise or manage a MSW facility. Specifically, the Facility's operator did not have a valid Class A MSW landfill operator license.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 28

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

One monthly event is recommended based on documentation of the violation during the February 14, 2012 investigation to the March 13, 2012 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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$500

Violation Final Penalty Total \$4,950

This violation Final Assessed Penalty (adjusted for limits) \$4,950

Economic Benefit Worksheet

Respondent Duval County
Case ID No. 43778
Req. Ent. Reference No. RN101921286
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				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]	\$500	14-Feb-2012	14-Feb-2012	0.00	\$0	\$500	\$500
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to obtain the required MSW operator license. Date Required is the investigation date.
Final Date is the investigation date.

Approx. Cost of Compliance \$500

TOTAL \$500

Screening Date 13-Mar-2012

Docket No. 2012-0597-MSW-E

PCW

Respondent Duval County

Policy Revision 3 (September 2011)

Case ID No. 43778

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101921286

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.165(c) and MSW Permit No. 1481, SOP, Section X.

Violation Description

Failed to provide adequate intermediate cover in all areas which have received waste but will be inactive for longer than 180 days. Specifically, the northern-most cell at the Facility had significant erosion and exposed waste and an inactive area adjacent to the working face also had exposed waste.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

22 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended based on documentation of the violation during the February 14, 2012 investigation to the March 7, 2012 date of compliance.

Good Faith Efforts to Comply

10.0% Reduction \$125

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

Notes

The Respondent came into compliance on March 7, 2012, after the Notice of Enforcement dated February 29, 2012.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$1,525

This violation Final Assessed Penalty (adjusted for limits) \$1,525

Economic Benefit Worksheet

Respondent Duval County
Case ID No. 43778
Reg. Ent. Reference No. RN101921286
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$3,000	14-Feb-2012	7-Mar-2012	0.06	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to provide adequate intermediate cover. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$3,000

TOTAL

\$9

Compliance History Report

Customer/Respondent/Owner-Operator: CN600768907 Duval County Classification: AVERAGE Rating: 6.79
Regulated Entity: RN101921286 Duval County Landfill Classification: AVERAGE Site Rating:
ID Number(s): MUNICIPAL SOLID WASTE DISPOSAL PERMIT 1481
MUNICIPAL SOLID WASTE NON ID NUMBER UNA455160
Location: ABOUT 2 MI NW OF SAN DIEGO ON CR 109 IN DUVAL COUNTY, TX
TCEQ Region: REGION 16 - LAREDO
Date Compliance History Prepared: March 09, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 09, 2007 to March 09, 2012

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

Name: Keith Frank Phone: (512) 239-1203

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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 10/25/2007

ADMINORDER 2005-1785-MSW-E

Classification: Minor

Citation: 30 TAC Chapter 330, SubChapter F 330.124(a)

Description: Failure to have large, heavy, or bulky items which cannot be incorporated in the regular spreading, compaction and covering operations place in the large- item salvage area.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.115

Description: Failure to have a stock pile of earth within 2500 ft. of the working phase, or active disposal area.

Classification: Moderate

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

Description: Failure to maintain a cover inspection record.

Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter F 30.201(c)

Description: Failure to have a licensed supervisor or manager by January 1, 2004.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.117(b)

Description: Failure to prevent the disposal of an unauthorized waste other than B&CD wastes and rubbish (trash) that are free of putrescible and household waste at a type 4 landfill.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	07/02/2007	(418431)
2	08/23/2007	(573232)
3	01/18/2008	(615251)
4	04/28/2008	(654370)
5	12/19/2008	(721886)
6	11/30/2009	(782926)
7	01/24/2011	(880528)
8	06/15/2011	(932842)
9	01/30/2012	(982656)
10	02/29/2012	(989671)

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

Date: 08/23/2007 (573232) CN600768907

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.115

Description: Failure to have a stock pile of earth within 2500 ft. of the working phase, or active disposal area.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.113(a)

Description: Failure to provide a copy of the final closure plan.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.113(b)
30 TAC Chapter 330, SubChapter F 330.113(b)(1)
30 TAC Chapter 330, SubChapter F 330.113(b)(10)
30 TAC Chapter 330, SubChapter F 330.113(b)(11)
30 TAC Chapter 330, SubChapter F 330.113(b)(2)
30 TAC Chapter 330, SubChapter F 330.113(b)(3)
30 TAC Chapter 330, SubChapter F 330.113(b)(4)
30 TAC Chapter 330, SubChapter F 330.113(b)(5)
30 TAC Chapter 330, SubChapter F 330.113(b)(6)
30 TAC Chapter 330, SubChapter F 330.113(b)(7)
30 TAC Chapter 330, SubChapter F 330.113(b)(8)
30 TAC Chapter 330, SubChapter F 330.113(b)(9)

Description: Failure to maintain a copy of financial assurance documentation relating to financial assurance for closure and post closure.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.117(a)

Description: Failure to confine the unloading of waste to a small area.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.117(b)

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

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.120
30 TAC Chapter 330, SubChapter F 330.120(1)
30 TAC Chapter 330, SubChapter F 330.120(2)

Description: Failure to control windblown solid waste and litter.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.121(a)

Description: Failure to prevent solid waste unloading, storage, disposal, or processing operations within any easement, buffer zone, or right-of-way that crosses the site.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.122
Description: Failure to maintain a visible benchmark.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter E 330.55(b)(10)(B)(i)
Description: Failure to place site boundary markers (black) at each corner of the site and along each boundary line at intervals no greater than 300 feet.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter E 330.55(b)(10)(B)(ii)
Description: Failure to place buffer zone markers (yellow) at all corners and between corners at intervals of no greater than 300 feet.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter E 330.55(b)(10)(B)(iii)
Description: Failure to place easement and right-of-way markers (green) along the centerline of an easement.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter E 330.55(b)(10)(B)(iv)
Description: Failure to place adequate grid markers along the area expected to be filled within the next 3 year period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.133(a)
Description: Failure to provide daily cover.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.133(b)
Description: Failure to provide intermediate cover for areas that will be inactive for longer than 180 days.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.133(g)
Description: Failure to maintain a cover application log.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.134
Description: Failure to prevent the ponding of water over waste

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.132
Description: Failure to spread and compact solid waste by repeated passages of compaction equipment such that each layer is thoroughly compacted.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter F 330.116
Description: Failure to adhere to Section III "Security" of the SOP, which states "The site will be enclosed by a fence with one entrance, which will have a gate."

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)
Description: Failure to have a scrap tire storage site registration.

Date: 01/24/2011 (880528) CN600768907

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 330, SubChapter D 330.125(a)
Description: Failure to maintain the permit, required facility plans, and related documentation at the facility.

Date: 06/14/2011 (932842) CN600768907

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 330, SubChapter D 330.125(a)
Description: Failure to maintain the permit, required facility plans, and related documentation at the facility.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 330, SubChapter D 330.165(b)
Description: Failure to provide adequate weekly cover at a Type IV municipal solid waste facility.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 330, SubChapter D 330.133(a)
Description: Failure to confine the unloading of waste to as small an area as practical.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 330, SubChapter D 330.143(b)(1)(A)
Description: Failure to color-code boundary markers black.

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
DUVAL COUNTY
RN101921286

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2012-0597-MSW-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a landfill about two miles northwest of San Diego on County Road 109, Duval County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Nine Hundred Fifteen Dollars (\$8,915) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Seven Hundred Eighty-Three Dollars (\$1,783) is deferred contingent upon the Respondent's timely and satisfactory compliance with all

the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Specifically, Seven Thousand One Hundred Thirty-Two Dollars (\$7,132) shall be conditionally offset by the Respondent's completion of two Supplemental Environmental Projects ("SEPs").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Began maintaining adequate weekly and intermediate cover at the Facility on March 7, 2012; and
 - b. Properly installed black boundary markers in the corners of the Facility and at distances of less than 300 feet apart on April 12, 2012.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to provide adequate weekly cover, in violation of 30 TEX. ADMIN. CODE § 330.165(b) and MSW Permit No. 1481, Site Operating Plan ("SOP"), Section X., as documented during investigations conducted on June 7, 2011 and February 14, 2012. Specifically, significant amounts of waste were left exposed in previously worked areas of the Facility.
2. Failed to install Facility boundary markers, in violation of 30 TEX. ADMIN. CODE § 330.143(b)(1)(A), as documented during investigations conducted on June 7, 2011 and February 14, 2012. Specifically, boundary markers in the corners of the Facility were not painted black and were greater than 300 feet apart.

3. Failed to have at least one individual licensed to supervise or manage a MSW facility, in violation of 30 TEX. ADMIN. CODE § 30.201(b) and MSW Permit No. 1481, SOP, Section II., as documented during an investigation conducted on February 14, 2012. Specifically, the Facility's operator did not have a valid Class A MSW landfill operator license.
4. Failed to provide adequate intermediate cover in all areas which have received waste but will be inactive for longer than 180 days, in violation of 30 TEX. ADMIN. CODE § 330.165(c) and MSW Permit No. 1481, SOP, Section X., as documented during an investigation conducted on February 14, 2012. Specifically, the northern-most cell at the Facility had significant erosion and exposed waste and an inactive area adjacent to the working face also had exposed waste.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. The Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here.
2. The Respondent shall implement and complete two SEPs in accordance with TEX. WATER CODE § 7.067. As set forth in Section I Paragraph 6 above, Seven Thousand One Hundred Thirty-Two Dollars (\$7,132) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEPs defined in Attachment A and B, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEPs agreements.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, ensure at least one individual at the Facility obtains the proper MSW operator license, in accordance with 30 TEX. ADMIN. CODE § 30.201; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

Duval County
DOCKET NO. 2012-0597-MSW-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela J. ...
For the Executive Director

11/16/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Abel Aragon
Signature

Oct. 23, 2012
Date

Abel ARAGON
Name (Printed or typed)
Authorized Representative of
Duval County

Duval County Judge
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2012-0597-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

The Respondent: Duval County

Penalty Amount: Seven Thousand One Hundred Thirty-Two Dollars (\$7,132)

SEP Offset Amount: Three Thousand Five Hundred Sixty-Six Dollars (\$3,566)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D")

Project Name: *Cleanup of Unauthorized Trash Dumps*

Location of SEP: Duval County

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

1. Project Description

a. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") to be used for the Cleanup of Unauthorized Trash Dumps program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and county government officials and private entities to clean up sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be identified, where there is no preexisting obligation to clean up the site by the owner or the government, and where reasonable efforts have already been taken to prevent the dumping. SEP offset amount may be used for the direct cost of collection and disposal or recycling of debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

The projects will be administered in accordance with federal, state, and local environmental laws and regulations. Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will help rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects. This SEP may also provide a discernible environmental benefit by providing for the proper disposal of tires that may be dumped in trash dumps and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

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

Duval County
Attachment A

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

4. Failure to Fully Perform

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

In the event of incomplete performance, Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

Attachment B
Docket Number: 2012-0597-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Duval County

Payable Penalty Amount: Seven Thousand One Hundred Thirty-Two Dollars (\$7,132)

SEP Amount: Three Thousand Five Hundred Sixty-Six Dollars (\$3,566)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. (RC&D) - Household Hazardous Waste Clean-Up

Location of SEP: Duval County

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

1. Project Description

A. Project

Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

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

2. Performance Schedule

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

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

Duval County
Agreed Order - Attachment B

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

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

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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