EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43016
Los Ebanos Land & Cattle Company, LLC
RN106233695
Docket No. 2011-2190-MSW-E

Order Type:
Default Order

Media:
MSW

Small Business:
N/A

Location(s) Where Violation(s) Occurred:
Behind the Sullivan City Fire Department and city hall, located at 500 Cenizo Street, Sullivan City, Hidalgo County

Type of Operation:
unauthorized municipal solid waste ("MSW") disposal site

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: March 1, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: $15,000

Total Paid to General Revenue: $0

Total Due to General Revenue: $15,000

Compliance History Classifications:
Person/CN –Not yet rated
Site/RN –Not yet rated

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): August 29, 2011
Complaint Information: Alleged that a large amount of brush and other debris had accumulated at the location and that it has become an unauthorized disposal site.

Date(s) of Investigation: September 14 - 15, 2011

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

Date(s) of NOE(s): October 21, 2011

Violation Information

Failed to prevent the unauthorized disposal of MSW (approx. 14,383 cubic yards (4,794 tons) of mixed construction and demolition waste, vegetative waste, shingles, household waste, tires, furniture, glass, and clothing) [30 TEX. ADMIN. CODE § 330.15(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately cease disposing of any additional MSW at the Site.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Remove all MSW from the Site and dispose of the MSW at an authorized facility in 30-day increments according to the schedule set forth below:
   a. Within 30 days remove 3,000 cubic yards of MSW from the Site and dispose of the MSW at an authorized facility;
   b. Within 60 days remove an additional 3,000 cubic yards of MSW from the Site and dispose of the MSW at an authorized facility;
   c. Within 90 days remove an additional 3,000 cubic yards of MSW from the Site and dispose of the MSW at an authorized facility;
   d. Within 120 days remove an additional 3,000 cubic yards of MSW from the Site and dispose of the MSW at an authorized facility; and
   e. Within 150 days remove all remaining MSW from the Site and dispose of the MSW at an authorized facility.
4. The amount of MSW removed during each 30-day period shall be calculated using the following weight/volume conversions:
   a. one ton = 2,000 pounds;
   b. one gallon = 7.5 pounds (grease trap waste);
   c. one gallon = 8.5 pounds (wastewater treatment plant sludge or septage);
   d. one gallon = 9.0 pounds (grit trap waste);
   e. one drum = 55 gallons;
   f. one cubic yard = 400 pounds (no compaction);
   g. one cubic yard = 666.66 pounds (medium compaction); and
   h. one cubic yard = 800 pounds (heavy compaction).
5. Within 30 days after the expiration of each compliance deadline listed in Technical Requirement No. 3, submit written certification and supporting documentation to demonstrate the amount of MSW removed from the Site and the location of the authorized facility or facilities where the MSW was disposed.

Litigation Information

Date Petition(s) Filed: November 15, 2012

Date Green Card(s) Signed: November 19, 2012

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Peipey Tang, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
James Murphy, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Brianna Carlson, Enforcement Division, (361) 825-3420

TCEQ Regional Contact: Francisco Chavera, Harlingen Regional Office, (956) 425-6010

Respondent: Verne Vanderpool, Member, Los Ebanos Land & Cattle Company, LLC, Route 2, Box 230 Alamo, Texas 78516

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011) *PCW Revision August 3, 2011*

TCEQ

DATES					
Assigned	31-Oct-2011				
PCW	6-Dec-2011	Screening	7-Nov-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Los Ebanos Land & Cattle Company, LLC		
Reg. Ent. Ref. No.	RN106233695		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43016	No. of Violations	1
Docket No.	2011-2190-MSW-E	Order Type	Findings
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Brianna Carlson
		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* $15,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement *Subtotals 2, 3, & 7* $0

Notes: No adjustment for compliance history.

Culpability No 0.0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts $8,257
Approx. Cost of Compliance $186,048

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* $15,000

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $15,000

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $15,000

DEFERRAL 0.0% Reduction *Adjustment* $0

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY $15,000

Screening Date	7-Nov-2011	**Docket No.**	2011-2190-MSW-E	**PCW**
Respondent	Los Ebanos Land & Cattle Company, LLC			*Policy Revision 3 (September 2011)*
Case ID No.	43016			*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN106233695			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Brianna Carlson			

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*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*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) 0%

>> Repeat Violator (Subtotal 3)

N/A

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

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 0%

Screening Date	7-Nov-2011	**Docket No.**	2011-2190-MSW-E	**PCW**

Respondent	Los Ebanos Land & Cattle Company, LLC
Case ID No.	43016
Reg. Ent. Reference No.	RN106233695
Media [Statute]	Municipal Solid Waste
Enf. Coordinator	Brianna Carlson

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number	1
Rule Cite(s)	30 Tex. Admin. Code § 330.15(c)
Violation Description	Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, approximately 14,383 cubic yards (4,794 tons) of mixed construction and demolition waste, vegetative waste, shingles, household waste, tires, furniture, glass, and clothing were disposed of at the Site.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment has been exposed to significant amounts of pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $17,500

$7,500

Violation Events

Number of Violation Events: 2 — 54 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $15,000

Two monthly events are recommended from the September 14, 2011 investigation date to the November 7, 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 $15,000

Economic Benefit (EB) for this violation

Estimated EB Amount $8,257

Statutory Limit Test

Violation Final Penalty Total $15,000

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

Economic Benefit Worksheet

Respondent Los Ebanos Land & Cattle Company, LLC
Case ID No. 43016
Reg. Ent. Reference No. RN106233695
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$186,048	14-Sep-2011	3-Aug-2012	0.89	$8,257	n/a	$8,257
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 dispose of the waste 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 $186,048

TOTAL $8,257

Compliance History

Customer/Respondent/Owner-Operator:	CN603963570	Los Ebanos Land & Cattle Company, LLC	Classification:	Rating:
Regulated Entity:	RN106233695	Los Ebanos Land & Cattle Company, LLC Property	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED		ID NUMBER	455150206
Location:	LOCATED BEHIND THE SULLIVAN CITY FIRE DEPARTMENT AND CITY HALL AT 500 CENIZO STREET, SULLIVAN CITY, TEXAS			
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	November 05, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 05, 2006 to November 05, 2011			

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

Name: Brianna Carlson Phone: 956/430-6021

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site:

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

N/A

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING LOS EBANOS LAND & CATTLE COMPANY, LLC; RN106233695	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-2190-MSW-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Los Ebanos Land & Cattle Company, LLC ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns an unauthorized waste disposal site behind the Sullivan City fire department and city hall, located at 500 Cenizo Street in Sullivan City, Hidalgo County, Texas (the "Site"). The Site involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.

2. During an investigation conducted on September 14 and 15, 2011, a TCEQ Harlingen Regional Office investigator documented that Respondent failed to prevent the unauthorized disposal of MSW. Specifically, approximately 14,383 cubic yards (4,794 tons) of mixed construction and demolition waste, vegetative waste, shingles, household waste, tires, furniture, glass, and clothing were disposed of at the Site.

3. Respondent received notice of the violation on or about October 26, 2011.

4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Los Ebanos Land & Cattle Company, LLC and City of Sullivan City[1]" (the "EDPRP") in the TCEQ Chief Clerk's office on November 15, 2012.

5. By letter dated November 15, 2012, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on November 19, 2012, as evidenced by the signature on the card.

[1] City of Sullivan City filed an answer requesting a hearing on November 30, 2012.

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

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.

2. As evidenced by Finding of Fact No. 2, Respondent failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).

3. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104.

4. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.

5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of fifteen thousand dollars ($15,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of fifteen thousand dollars ($15,000.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Los Ebanos Land & Cattle Company, LLC; Docket No. 2011-2190-MSW-E" to:

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

3. Respondent shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Order, Respondent shall cease disposing of any additional MSW at the Site, in accordance with 30 TEX. ADMIN. CODE ch. 330.

   b. Within 45 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.f., below, to demonstrate compliance with Ordering Provision No. 3.a.

   c. Respondent shall remove all MSW from the Site and dispose of the MSW at an authorized facility in 30-day increments according to the schedule set forth in Ordering Provisions Nos. 3.c.i. through 3.c.v., below.

      i. Within 30 days after the effective date of this Order, Respondent shall remove 3,000 cubic yards of MSW from the Site and dispose of the MSW at an authorized facility;

      ii. Within 60 days after the effective date of this Order, Respondent shall remove an additional 3,000 cubic yards of MSW from the Site and dispose of the MSW at an authorized facility;

      iii. Within 90 days after the effective date of this Order, Respondent shall remove an additional 3,000 cubic yards of MSW from the Site and dispose of the MSW at an authorized facility;

      iv. Within 120 days after the effective date of this Order, Respondent shall remove an additional 3,000 cubic yards of MSW from the Site and dispose of the MSW at an authorized facility; and

      v. Within 150 days after the effective date of this Order, Respondent shall remove all remaining MSW from the Site and dispose of the MSW at an authorized facility.

   d. The amount of MSW removed during each 30-day period shall be calculated using the following weight/volume conversions as set forth in 30 TEX. ADMIN CODE § 330.675(a)(2), as applicable:

      i. one ton = 2,000 pounds;
      ii. one gallon = 7.5 pounds (grease trap waste);
      iii. one gallon = 8.5 pounds (wastewater treatment plant sludge or septage);
      iv. one gallon = 9.0 pounds (grit trap waste);
      v. one drum = 55 gallons;
      vi. one cubic yard = 400 pounds (no compaction);
      vii. one cubic yard = 666.66 pounds (medium compaction); and
      viii. one cubic yard = 800 pounds (heavy compaction).

e. Within 30 days after the expiration of each compliance deadline listed in Ordering Provisions Nos. 3.c.i. through 3.c.v. above, Respondent shall submit written certification and supporting documentation, in accordance with Ordering Provision No. 3.f., below, to demonstrate the amount of MSW removed from the Site and the location of the authorized facility or facilities where the MSW was disposed.

f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public; and shall include the following certification language:

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

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

Francisco Chavera, Waste Section Manager
Texas Commission on Environmental Quality
Harlingen Regional Office
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

4. All relief not expressly granted in this Order is denied.

5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.

6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until

Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV,T CODE § 2001.144.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

AFFIDAVIT OF PEIPEY TANG

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

"My name is Peipey Tang. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Los Ebanos Land & Cattle Company, LLC ("Los Ebanos") and City of Sullivan City[2]" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on November 15, 2012.

The EDPRP was mailed to Los Ebanos' last known address on November 15, 2012, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Los Ebanos received notice of the EDPRP on November 19, 2012, as evidenced by the signature on the card.

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

Peipey Tang

Peipey Tang, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 1 day of February, A.D. 2013.

Margaret T Jackson

Notary Signature

NOTARY PUBLIC STATE OF TEXAS
MARGARET T JACKSON
NOTARY PUBLIC
State of Texas
Comm. Exp. 12-21-2013

[2] City of Sullivan City filed an answer requesting a hearing on November 30, 2012.