

Calvin Court

RN100608538

Docket No. 2011-0364-IHW-E

Order Type:

Agreed Order

Media:

IHW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

3200 Court Street, Texarkana, Bowie County

Type of Operation:

former laminate manufacturing facility

Other Significant Matters:

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

Texas Register Publication Date:	March 1, 2013
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$13,000
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Total Paid to General Revenue:	\$365
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Total Due to General Revenue:	\$12,635
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Payment Plan:	35 payments of \$361
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SEP Conditional Offset:	N/A
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Compliance History Classifications:

Person/CN –Average	
Site/RN –Average	

Major Source:	No
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Statutory Limit Adjustment:	None
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Applicable Penalty Policy:	September 2002
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Investigation Information

Complaint Date(s):	N/A
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Date(s) of Investigation:	December 9, 2010
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Date(s) of NOV(s):	N/A
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Date(s) of NOE(s):	February 8, 2011
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Calvin Court
RN100608538
Docket No. 2011-0364-IHW-E

Violation Information

1. Failed to prevent the unauthorized discharge and improper disposal of industrial solid wastes at the Site [30 TEX. ADMIN. CODE § 335.4(3)].
2. Failed to perform hazardous waste determinations and classifications on all waste stored on-Site [30 TEX. ADMIN. CODE §§ 335.62, 335.503(a) and 335.504, and 40 CFR § 262.11].
3. Failed to obtain a permit for the storage of industrial hazardous and solid waste [30 TEX. ADMIN. CODE §335.2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Conducted waste determinations and classifications on all waste streams generated at the Site as of November 19, 2012;
2. Removed all waste from the Site as of December 14, 2012; and
3. Removed the contaminated soil from the Site as of December 14, 2012.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: May 13, 2011

Date Answer(s) Filed: June 1, 2011

SOAH Referral Date: July 7, 2011

Hearing Date(s):

Preliminary hearing: August 25, 2011

Evidentiary hearing: N/A

Settlement Date: January 28, 2013

Contact Information

TCEQ Attorneys: Jeffrey Huhn, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Blas Coy, Public Interest Counsel, (512) 239-6363

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Michael Meyer, Enforcement Division, (512) 239-4492

TCEQ Regional Contact: Michael Brashear, Tyler Regional Office, (903) 535-5176

Respondent: Calvin Court, 3200 Court Street, Texarkana, Texas 75501

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	4-Mar-2011		
	PCW	1-Apr-2013	Screening	7-Mar-2011
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Calvin Court
Reg. Ent. Ref. No.	RN100608538
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41269	No. of Violations	3
Docket No.	2011-0364-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michael Meyer
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$13,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	0.0% Enhancement Subtotals 2, 3, & 7
Notes	No adjustments for compliance history.
	Subtotal 3
	\$0

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

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

Economic Benefit	0.0% Enhancement*	Subtotal 6
Total EB Amounts	\$5,155	
Approx. Cost of Compliance	\$52,417	
	*Capped at the Total EB \$ Amount	\$0

SUM OF SUBTOTALS 1-7	Final Subtotal
	\$13,000

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes		
		Final Penalty Amount
		\$13,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty
	\$13,000

DEFERRAL	0.0%	Reduction	Adjustment
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			
Notes	Deferral not offered for non-expedited settlement.		

PAYABLE PENALTY	\$13,000
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Screening Date 7-Mar-2011

Docket No. 2011-0364-IHW-E

PCW

Respondent Calvin Court

Case ID No. 41269

Reg. Ent. Reference No. RN100608538

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

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)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustments for compliance history.

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

Screening Date 7-Mar-2011

Docket No. 2011-0364-IHW-E

PCW

Respondent Calvin Court

Policy Revision 2 (September 2002)

Case ID No. 41269

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100608538

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.4(3)

Violation Description Failed to prevent the unauthorized discharge and improper disposal of industrial solid wastes at the Site. Specifically, discharges of waste oil and spent resin were observed on the concrete and at various locations at the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do 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 88 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 from the December 9, 2010 investigation to the March 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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,008

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Calvin Court
Case ID No. 41269
Reg. Ent. Reference No. RN100608538
Media Violation No. 1 Industrial and Hazardous Waste

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)	\$10,000	9-Dec-2010	14-Dec-2012	2.02	\$1,008	n/a	\$1,008

Notes for DELAYED costs: Estimated cost to remove the contaminated soil and dispose of it at an authorized facility. The date required is the investigation date and the 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 \$10,000

TOTAL \$1,008

Screening Date 7-Mar-2011

Docket No. 2011-0364-IHW-E

PCW

Respondent Calvin Court

Policy Revision 2 (September 2002)

Case ID No. 41269

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100608538

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 335.62 and 335.503(a) and 335.504 and 40 Code of Federal Regulations § 262.11

Violation Description Failed to perform hazardous waste determinations and classifications on all waste stored on-site. Specifically, hazardous waste determinations and waste classifications were not conducted on approximately 74 containers of abandoned products and wastes comprising approximately 9 different wastestreams.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential	x		10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 9 711 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$9,000

Nine single events are recommended (one event per wastestream).

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 \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,682 Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

Economic Benefit Worksheet

Respondent Calvin Court
Case ID No. 41269
Reg. Ent. Reference No. RN100608538
Media Violation No. Industrial and Hazardous Waste
 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$37,800	9-Dec-2010	19-Nov-2012	1.95	\$3,682	n/a	\$3,682
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 conduct waste determinations and classifications on nine wastestreams (\$4,200 per wastestream). The date required is the investigation date and the 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 \$37,800

TOTAL \$3,682

Screening Date 7-Mar-2011

Docket No. 2011-0364-IHW-E

PCW

Respondent Calvin Court

Policy Revision 2 (September 2002)

Case ID No. 41269

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100608538

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Michael Meyer

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 335.2

Violation Description

Failed to obtain a permit for the storage of industrial hazardous and solid waste. Specifically, seven drums containing resins and adhesives which were hazardous for ignitability (D001) and reactivity (D003) were stored at the Site. In addition, approximately 115 drums of abandoned products and wastes were also stored at the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 88 Number of violation days

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

Violation Base Penalty \$3,000

Three monthly events are recommended from the December 9, 2010 investigation date to the March 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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$465

Violation Final Penalty Total \$3,000

This violation Final Assessed Penalty (adjusted for limits) \$3,000

Economic Benefit Worksheet

Respondent Calvin Court
Case ID No. 41269
Reg. Ent. Reference No. RN100608538
Media Violation No. Industrial and Hazardous Waste
 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$4,617	9-Dec-2010	14-Dec-2012	2.02	\$465	n/a	\$465
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to dispose of seven 55-gallon drums of resins and adhesives at \$4 per gallon and 54 gallons per drum. For the unknown materials, assuming the materials are non-hazardous, the cost is 50 cents per gallon at 54 gallons per drum times 115 drums. The date required is the investigation date and the 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 \$4,617

TOTAL \$465

Compliance History

Customer/Respondent/Owner-Operator:	CN603787664	COURT, CALVIN	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN100608538	NEWCOURT	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE	EPA ID		TXD987998390
	INDUSTRIAL AND HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)		82147
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		BK0081H
	STORMWATER	PERMIT		TXR05N197
Location:	3200 COURT ST, TEXARKANA, TX, 75501			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	March 11, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 11, 2006 to March 11, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:				
Name:	Michael Meyer	Phone:	239 - 4492	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CALVIN COURT;
RN100608538**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-0364-IHW-E

I. JURISDICTION AND STIPULATIONS

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

1. Respondent owns a former laminate manufacturing facility located at 3200 Court Street in Texarkana, Bowie County, Texas (the "Site"). The Site involves the management and/or the disposal of industrial solid and/or hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of thirteen thousand dollars (\$13,000.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred sixty-five dollars (\$365.00) of the administrative penalty. The remaining amount of twelve thousand six hundred thirty-five dollars (\$12,635.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred sixty-one dollars (\$361.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director recognizes that Respondent implemented the following corrective measures at the Site:
 - a. Conducted waste determinations and classifications on all waste streams generated at the Site on or before November 19, 2012;
 - b. Removed all waste from the Site on or before December 14, 2012;
 - c. Removed the contaminated soil from the Site on or before December 14, 2012.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on December 9, 2010, a TCEQ Tyler Regional Office investigator documented that Respondent:
 - a. Failed to prevent the unauthorized discharge and improper disposal of industrial solid wastes at the Site, in violation of 30 TEX. ADMIN. CODE § 335.4(3). Specifically, discharges of waste oil and spent resin were observed on the concrete and at various locations at the Site;
 - b. Failed to perform hazardous waste determinations and classifications on all waste stored on-Site, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.503(a) and 335.504, and 40 CFR § 262.11. Specifically, hazardous waste determinations and waste classifications were not conducted on approximately 74 containers of abandoned products and wastes comprising approximately 9 different waste streams; and
 - c. Failed to obtain a permit for the storage of industrial hazardous and solid waste in violation of 30 TEX. ADMIN. CODE §335.2. Specifically, seven drums containing resins and adhesives which were hazardous for ignitability (D001) and reactivity (D003) were stored at the Site. In addition, approximately 115 drums of abandoned products and wastes were also stored at the Site.

2. Respondent received notice of the violations on or about February 13, 2011.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Calvin Court, Docket No. 2011-0364-IHW-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
2. All relief not expressly granted in this Agreed Order is denied.
3. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. 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.
8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



Date

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

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

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

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



Signature - Calvin Court



Date