

City of Sullivan City
RN106233695
Docket No. 2011-2190-MSW-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

MSW

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

Behind the Sullivan City Fire Department and City Hall, 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 15, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$15,000

Total Paid to General Revenue: \$475

Total Due to General Revenue: \$14,525

Payment Plan: 35 payments of \$415 each

Compliance History Classifications:

Person/CN – Average
 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

City of Sullivan City
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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. 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 Technical Requirements Nos. 3.a. through 3.e., 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 Requirements Nos. 3.a. through 3.e. above, 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.

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Litigation Information

Date Petition(s) Filed: November 15, 2012
Date Answer(s) Filed: November 30, 2012
SOAH Referral Date: January 3, 2013
Hearing Date(s):
 Preliminary Hearing: February 21, 2013
 Evidentiary Hearing: N/A
Settlement Date: February 21, 2013

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 SEP Coordinator: N/A
TCEQ Enforcement Coordinator: Brianna Carlson, Enforcement Division, (956) 430-6021
TCEQ Regional Contact: Francisco Chavera, Harlingen Regional Office, (956) 425-6010
Respondent Contact: The Honorable Leo Garcia, Mayor Pro Tem, City of Sullivan City, P.O. Box 249, Sullivan City, Texas 78595
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	Screening	7-Nov-2011	EPA Due	
	PCW	1-Feb-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Sullivan City
Reg. Ent. Ref. No.	RN106233695
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	43016	Order Type	Findings
Docket No.	2011-2190-MSW-E	Government/Non-Profit	Yes
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Brianna Carlson
Multi-Media		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
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		Subtotals 2, 3, & 7	\$0
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	0.0% Enhancement		

Notes: No adjustment for compliance history.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$8,257
 Approx. Cost of Compliance: \$186,048
 *Capped at the Total EB \$ Amount

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

Final Penalty Amount	\$15,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)
 Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$15,000
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Screening Date 7-Nov-2011

Docket No. 2011-2190-MSW-E

PCW

Respondent City of Sullivan City

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

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 City of Sullivan City *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

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="30.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Sullivan City
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	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	\$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: CN601049216 City of Sullivan City Classification: AVERAGE Rating: 3.01
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 07, 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
CITY OF SULLIVAN CITY;
RN106233695**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-2190-MSW-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding City of Sullivan City ("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 presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

FINDINGS OF FACT

1. Respondent operates 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.

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. 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.
4. An administrative penalty in the amount of fifteen thousand dollars (\$15,000.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid four hundred seventy-five dollars (\$475.00) of the administrative penalty. The remaining amount of fourteen thousand five hundred twenty-five dollars (\$14,525.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of four hundred fifteen dollars (\$415.00) 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.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Sullivan City, 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
2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed 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 Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision No. 2.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. 2.c.i. through 2.c.v., below:

- i. Within 30 days after the effective date of this Agreed 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 Agreed 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 Agreed 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 Agreed 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 Agreed 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. 2.c.i. through 2.c.v. above, Respondent shall submit written certification and supporting documentation, in accordance with Ordering Provision No. 2.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

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. 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 in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or

otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



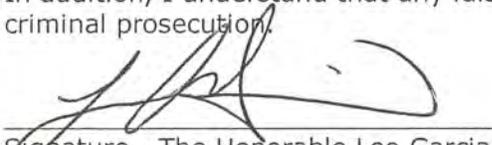
Date

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 City of Sullivan City, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

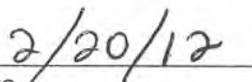
I also understand that failure to comply with the Ordering Provisions in this Agreed Order and/or failure to timely pay the penalty amount may result in:

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

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



Signature - The Honorable Leo Garcia
Mayor Pro Tem, City of Sullivan City



Date