

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 34980
Dowd & Sons Automobile Salvage Company, Inc.
RN101531887
Docket No. 2012-1116-PST-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

419 7th Street, Corsicana, Navarro County

Type of Operation:

automobile salvage and wrecking yard

Other Significant Matters:

Additional Pending Enforcement Actions:

Past-Due Penalties: \$5,197.94 (2007-1881-MLM-E; Referred to the AG)

Past-Due Fees: None

Other: None

Interested Third-Parties: None

Texas Register Publication Date: May 24, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$120,000

Deferred for Financial Inability to Pay: \$116,400

Total Paid to General Revenue: \$100

Total Due to General Revenue: \$3,500

Payment Plan: 35 payments of \$100 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Poor

Site/RN – Poor

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: February 28, 2012
Date(s) of NOV(s): April 14, 2011
Date(s) of NOE(s): May 10, 2012

Violation Information

1. Failed to obtain qualified, licensed personnel to conduct a site assessment and submit a copy of the site assessment to the TCEQ within 30 days after the December 18, 2009, effective date of TCEQ Agreed Order Docket No. 2007-1881-MLM-E [30 TEX. ADMIN. CODE § 334.55(a)(6) and (e)(1) and TCEQ Agreed Order Docket No. 2007-1881-MLM-E, Ordering Provision No. 2.a.].
2. Failed to pay the outstanding administrative penalty for Account No. 23605575 [TEX. WATER CODE § 7.061 and TCEQ Agreed Order Docket No. 2007-1881-MLM-E, Ordering Provision No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Obtain qualified, licensed personnel to conduct a site assessment at the Facility and submit a copy of the site assessment to TCEQ; and
 - b. Submit payment for the outstanding administrative penalty, including any associated penalties and interest
2. Within 45 days submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: September 12, 2012
Date Answer(s) Filed: October 12, 2012
SOAH Referral Date: November 13, 2012
Hearing Date(s):
Preliminary Hearing: January 3, 2013
Evidentiary Hearing: May 21, 2013 (scheduled)
Settlement Date: April 30, 2013

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Judy Kluge, Enforcement Division, (817) 588-5825
TCEQ Regional Contact: Sam Barrett, DFW Regional Office, (817) 588-5800
Respondent Contact: Mike Dowd, President, Dowd & Sons Automobile Salvage Company, Inc.,
P.O. Box 508, Corsicana, Texas 75151
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	21-May-2012	Screening	29-May-2012	EPA Due	
	PCW	31-May-2012				

RESPONDENT/FACILITY INFORMATION			
Respondent	Dowd & Sons Automobile Salvage Company, Inc.		
Reg. Ent. Ref. No.	RN101531887		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34980	No. of Violations	2
Docket No.	2012-1116-PST-E	Order Type	Findings
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
		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	\$75,000
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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	60.0% Enhancement	Subtotals 2, 3, & 7	\$45,000
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Notes: Enhancement for one Agreed Order containing a denial of liability, one NOV with same or similar violations, and poor performer classification.

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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$454
 Approx. Cost of Compliance: \$3,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$120,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$120,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$120,000
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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	\$120,000
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Screening Date 29-May-2012

Docket No. 2012-1116-PST-E

PCW

Respondent Dowd & Sons Automobile Salvage Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34980

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101531887

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

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>)	1	5%
	Other written NOVs	0	0%
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%
<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) 25%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one Agreed Order containing a denial of liability, one NOV with same or similar violations, and poor performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 60%

Screening Date	29-May-2012	Docket No.	2012-1116-PST-E	PCW
Respondent	Dowd & Sons Automobile Salvage Company, Inc.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	34980	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101531887			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Judy Kluge			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 334.55(a)(6) and 334.55(e)(1) and TCEQ Agreed Order Docket No. 2007-1881-MLM-E, Ordering Provision Nos. 2.a.

Violation Description Failed to obtain qualified, licensed personnel to conduct a site assessment and submit a copy of the site assessment to the TCEQ within 30 days after the December 18, 2009, effective date of TCEQ Agreed Order Docket No. 2007-1881-MLM-E.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Harm			Percent <input type="text" value="25%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>		<input type="text"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

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

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	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

Thirty monthly events are recommended from the effective date of the Agreed Order, December 18, 2009, to the screening date of May 29, 2012.

Good Faith Efforts to Comply

0.0% 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 The Respondent does not meet the good faith criteria for this violation.

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 Dowd & Sons Automobile Salvage Company, Inc.
Case ID No. 34980
Reg. Ent. Reference No. RN101531887
Media Violation No. 1
Media Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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	18-Dec-2009	27-Dec-2012	3.03	\$454	n/a	\$454

Notes for DELAYED costs Estimated cost to ensure a qualified contractor conducts a site assessment and submits a release determination report. The date required is the effective date of the Agreed Order and the final date is the expected 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** \$454

Screening Date 29-May-2012

Docket No. 2012-1116-PST-E

PCW

Respondent Dowd & Sons Automobile Salvage Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34980

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101531887

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.22(a)

Violation Description

Failed to pay outstanding administrative penalty for Account No. 23605575 and TCEQ Agreed Order Docket No. 2007-1881-MLM-E.

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

Percent 0%

Matrix Notes

No penalty is recommended because the penalty and interest will be assessed at the next billing.

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Dowd & Sons Automobile Salvage Company, Inc.
Case ID No. 34980
Reg. Ent. Reference No. RN101531887
Media Violation No. Petroleum Storage Tank
 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				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

N/A

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

N/A

Approx. Cost of Compliance \$0

TOTAL \$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN600803597 Dowd & Sons Automobile Salvage Company, Inc. Classification: POOR Rating: 86.63
Regulated Entity: RN101531887 Dowd & Sons Automobile Salvage Company Inc Classification: POOR Site Rating: 170.25
ID Number(s): Petroleum Storage Tank Registration 28032 (Inactive)
Location: 419 S 7TH ST, CORSICANA, TX, 75110
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: May 30, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 30, 2007 to May 30, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Judy Kluge Phone: (817) 588-5825

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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: YES

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: 12/18/2009

ADMINORDER 2007-1881-MLM-E

Classification: Major

Citation: 2F TWC Chapter 37, SubChapter L 37.003
30 TAC Chapter 30 30.301(b)
30 TAC Chapter 30, SubChapter A 30.5(a)
30 TAC Chapter 334, SubChapter C 334.55(a)(3)
30 TAC Chapter 334, SubChapter I 334.401(a)

Description: Failed to hold an on-site supervisor license and contractor registration prior to removal of a UST from the ground.

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.6(b)(2)
30 TAC Chapter 334, SubChapter C 334.55(a)(1)

Description: Failed to provide a written notification to the TCEQ at least 30 days prior to performing a major construction activity, namely removing a UST.

Classification: Major

Citation: 30 TAC Chapter 334, SubChapter C 334.55(a)(6)
30 TAC Chapter 334, SubChapter C 334.55(e)(1)

Description: Failed to determine whether or not a release has occurred by performing a site assessment.

- 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 10/29/2007 (596082)
2 06/13/2008 (681787)
3 04/14/2011 (912570)
4 05/16/2012 (989364)

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

Date: 04/14/2011

(912570)

CN600803597

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.6(b)(2)
30 TAC Chapter 334, SubChapter C 334.55(a)(1)

Description: Failed to provide a written notification to the TCEQ at least 30 days prior to performing a major construction activity, namely removing a UST.

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 334, SubChapter C 334.55(a)(6)
30 TAC Chapter 334, SubChapter C 334.55(e)(1)

Description: Failed to determine whether or not a release has occurred by performing a site assessment.

- 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
DOWD & SONS AUTOMOBILE
SALVAGE COMPANY, INC.;
RN101531887**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-1116-PST-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 Dowd & Sons Automobile Salvage Company, Inc. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. 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 owns and operates an automobile salvage and wrecking yard located at 419 7th Street, Corsicana, Navarro County, Texas (Facility ID No. 28032) (the "Facility"). Until approximately August 10, 2008, the Facility contained a 1,000 gallon steel underground storage tank ("UST"), which contained a regulated petroleum substance and was not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
2. During a record review conducted on February 28, 2012, a TCEQ Central Office staff member documented that Respondent:
 - a. Failed to obtain qualified, licensed personnel to conduct a site assessment and submit a copy of the site assessment to the TCEQ within 30 days after the December 18, 2009, effective date of TCEQ Agreed Order Docket No. 2007-1881-MLM-E; and
 - b. Failed to pay the outstanding administrative penalty for Account No. 23605575 (TCEQ Agreed Order Docket No. 2007-1881-MLM-E).
3. Respondent received notice of the violations on or about May 15, 2012.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain qualified, licensed personnel to conduct a site assessment and submit a copy of the site assessment to the TCEQ within 30 days after the December 18, 2009, effective date of TCEQ Agreed Order Docket No. 2007-1881-MLM-E, in violation of 30 TEX. ADMIN. CODE § 334.55(a)(6) and (e)(1) and TCEQ Agreed Order Docket No. 2007-1881-MLM-E, Ordering Provision No. 2.a.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to pay the outstanding administrative penalty for Account No. 23605575, in violation of TEX. WATER CODE § 7.061 and TCEQ Agreed Order Docket No. 2007-1881-MLM-E, Ordering Provision No. 1.
4. 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.
5. An administrative penalty in the amount of one hundred twenty thousand dollars (\$120,000.00) 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. The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay all or part of the administrative penalty. Therefore, one hundred sixteen thousand four hundred dollars (\$116,400.00) of the administrative penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including any payment schedule, the Executive Director may require Respondent to pay all or part of the deferred administrative penalty.

Respondent paid one hundred dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) of the undeferred administrative penalty shall be payable in thirty-five (35) monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, 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, the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of the deferred penalty amount.

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. 5, 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: Dowd & Sons Automobile Salvage Company, Inc., Docket No. 2012-1116-PST-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. Within 30 days after the effective date of this Agreed Order, Respondent shall:

- i. Obtain qualified, licensed personnel to conduct a site assessment at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.55(a)(3), (a)(6) and (e), and submit a copy of the site assessment report to:

Remediation Division, MC 137
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Submit payment for the outstanding administrative penalty, including any associated penalties and interest, for TCEQ Agreed Order Docket No. 2007-1881-MLM-E. The payment shall include the notation, "Re: Dowd & Sons Automobile Salvage Company, Inc., TCEQ Financial Administration Account No. 23605575", to:

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

- b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification 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 certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

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

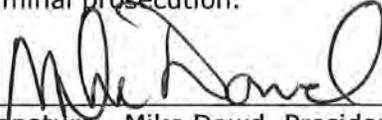
June 12, 2013
Date

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 Dowd & Sons Automobile Salvage Company, Inc., 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 - Mike Dowd, President
Dowd & Sons Automobile Salvage Company, Inc.

4-30-13
Date