

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 46120
Absolutely Outdoors, Ltd. and TERRA TEXAS LAND COMPANY, LLC
d/b/a Seber Lane Recycling Center
RN105659361
Docket No. 2013-0246-MSW-E

Order Type:
Agreed Order

Media:
MSW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
8813 Seber Drive, Tomball, Harris County

Type of Operation:
wood mulching 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: July 19, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$9,375

Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$275

Total Due to General Revenue: \$9,100

Payment Plan: 35 payments of \$260 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Satisfactory (Absolutely Outdoors, Ltd.);
N/A (TERRA TEXAS LAND COMPANY, LLC)

Site/RN – Satisfactory (Both Respondents)

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 46120
Absolutely Outdoors, Ltd. and TERRA TEXAS LAND COMPANY, LLC
d/b/a Seber Lane Recycling Center
RN105659361

Docket No. 2013-0246-MSW-E

Investigation Information

Complaint Date(s): April 16, 2012
Complaint Information: Alleged that the facility was accepting and storing green waste, and that the current pile of waste is about 50' in length and 7' in height.

Date(s) of Investigation: October 10, 2012 through December 14, 2012

Date(s) of NOV(s): August 20, 2012

Date(s) of NOE(s): December 19, 2012

Violation Information

Failed to prevent the unauthorized disposal of municipal solid waste ("MSW") (approx. 1,564 cu/yd) [30 TEX. ADMIN. CODE § 330.15(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

As of June 18, 2013, Respondent removed and properly disposed of the MSW from the Facility.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: June 6, 2013

Date Answer(s) Filed: N/A

Settlement Date: June 20, 2013

Contact Information

TCEQ Attorneys: Phillip M. Goodwin, P.G., Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Amy Swanholm, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Clinton Sims, Enforcement Division, (512) 239-2545

TCEQ Regional Contact: Jason Ybarra, Houston Regional Office, (713) 767-3500

Respondent: Josh Milne, Member and General Partner, Absolutely Outdoors, Ltd. and TERRA TEXAS LAND COMPANY, LLC, 6046 FM 2920, Ste. 306, Spring, Texas 77379

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	22-Jan-2013	Screening	24-Jan-2013	EPA Due	
	PCW	28-May-2013				

RESPONDENT/FACILITY INFORMATION			
Respondent	Absolutely Outdoors, Ltd. and TERRA TEXAS LAND COMPANY, LLC dba Seber Lane Recycling Center		
Reg. Ent. Ref. No.	RN105659361		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	46120	No. of Violations	1
Docket No.	2013-0246-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Clinton Sims
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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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	25.0% Enhancement	Subtotals 2, 3, & 7	\$1,875
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Notes: Enhancement for one order containing a denial of liability and one NOV with similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondents 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	\$926
Approx. Cost of Compliance	\$23,886

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,375
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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	\$9,375
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,375
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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: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$9,375
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Screening Date 24-Jan-2013

Docket No. 2013-0246-MSW-E

PCW

Respondent Absolutely Outdoors, Ltd. and TERRA TEXAS LAND COMPANY, LLC dba Seber Lane Recycling Center

Policy Revision 3 (September 2011)

Case ID No. 46120

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105659361

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

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)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability and one NOV with similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 24-Jan-2013

Docket No. 2013-0246-MSW-E

PCW

Respondent Absolutely Outdoors, Ltd. and TERRA TEXAS LAND COMPANY, LLC dba Seber Lane Recycling Center

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

Case ID No. 46120
Reg. Ent. Reference No. RN105659361
Media [Statute] Municipal Solid Waste
Enf. Coordinator Clinton Sims

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)

Violation Description Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 1,564 cubic yards of MSW were disposed of at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent. Contains an 'x' in the Actual/Moderate cell.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent.

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 41 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x. Contains an 'x' in the monthly cell.

Violation Base Penalty \$7,500

Two monthly events are recommended based on documentation of the violation during the December 14, 2012 investigation to the January 24, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDRP/Settlement Offer. Contains an 'x' in the N/A/Before NOV cell.

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$926

Violation Final Penalty Total \$9,375

This violation Final Assessed Penalty (adjusted for limits) \$9,375

Economic Benefit Worksheet

Respondent Absolutely Outdoors, Ltd. and TERRA TEXAS LAND COMPANY, LLC dba Seber Lane Recycling Center
Case ID No. 46120
Reg. Ent. Reference No. RN105659361
Media 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	\$23,886	14-Dec-2012	23-Sep-2013	0.78	\$926	n/a	\$926
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 MSW 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	\$23,886	TOTAL	\$926
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To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603542739, RN105659361, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603542739, Absolutely Outdoors, Ltd. **Classification:** SATISFACTORY **Rating:** 18.88

Regulated Entity: RN105659361, SEBER LANE RECYCLING CENTER **Classification:** SATISFACTORY **Rating:** 18.88

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 8813 SEBER DR TOMBALL, TX 77375-5200, HARRIS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s): MUNICIPAL SOLID WASTE PROCESSING PERMIT 100199
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455120152

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: February 6, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 6, 2008 to February 6, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Clinton Sims

Phone: (512) 239-6933

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 **Effective Date:** 03/20/2010 **ADMINORDER 2009-1477-MSW-E (1660 Order-Agreed Order With Denial)**

Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter A 328.5(d)
30 TAC Chapter 37, SubChapter J 37.931

Description: Failed to establish and maintain financial assurance for closure of the recycling Facility, as documented during an investigation on April 24, 2009. Respondent did not have financial assurance at the time of the investigation.

B. Criminal convictions:

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.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 **Date:** 08/20/2012 **(1002776)** **CN604151100**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Seber Lane Recycling Center failed to have authorization to store 1,564 cubic yards of municipal solid waste on-site.

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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To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN604151100, RN105659361, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN604151100, TERRA TEXAS LAND COMPANY, LLC **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN105659361, SEBER LANE RECYCLING CENTER **Classification:** SATISFACTORY **Rating:** 6.29

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 8813 SEBER DR TOMBALL, TX 77375-5200, HARRIS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s): MUNICIPAL SOLID WASTE PROCESSING PERMIT 100199
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455120152

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: February 6, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 6, 2008 to February 6, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Clinton Sims

Phone: (512) 239-6933

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 **Effective Date:** 03/20/2010 **ADMINORDER 2009-1477-MSW-E (1660 Order-Agreed Order With Denial)**
Classification: Moderate
Citation: 30 TAC Chapter 328, SubChapter A 328.5(d)
30 TAC Chapter 37, SubChapter J 37.931
Description: Failed to establish and maintain financial assurance for closure of the recycling Facility, as documented during an investigation on April 24, 2009. Respondent did not have financial assurance at the time of the investigation.

B. Criminal convictions:

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.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 **Date:** 08/20/2012 **(1002776)** **CN604151100**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)
Description: Seber Lane Recycling Center failed to have authorization to store 1,564 cubic yards of municipal solid waste on-site.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING ABSOLUTELY OUTDOORS, LTD. AND TERRA TEXAS LAND COMPANY, LLC D/B/A SEBER LANE RECYCLING CENTER; RN105659361

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BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2013-0246-MSW-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 Absolutely Outdoors, Ltd. and TERRA TEXAS LAND COMPANY, LLC d/b/a Seber Lane Recycling Center ("Respondents") 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 Respondents together stipulate that:

- 1. TERRA TEXAS LAND COMPANY, LLC owns and Absolutely Outdoors, Ltd. operates a wood mulching facility located at 8813 Seber Drive in Tomball, Harris County, Texas (the "Facility"). The Facility involves the management and/or the disposal of municipal solid waste ("MSW") 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 Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondents are 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 Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of nine thousand three hundred seventy-five dollars (\$9,375.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondents paid two hundred seventy-five dollars (\$275.00) of the administrative penalty. The remaining amount of nine thousand one hundred dollars (\$9,100.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of two hundred sixty dollars (\$260.00) 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 Respondents fail 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, Respondents' failure to meet the

payment schedule of this Agreed Order constitutes the failure by Respondents 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 Respondents 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 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 Respondents have not complied with one or more of the terms or conditions contained 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. 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.
11. The Executive Director recognizes that as of June 18, 2013, Respondents removed and properly disposed of the MSW from the Facility.

II. ALLEGATIONS

1. During an investigation conducted from October 10, 2012 through December 14, 2012, a TCEQ Houston Regional Office investigator documented that Respondents failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c). Specifically, approximately 1,564 cubic yards of MSW were disposed of at the Facility.
2. Respondents received notice of the violation on or about December 24, 2012.

III. DENIALS

Respondents generally deny each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondents pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondents' 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: Absolutely Outdoors, Ltd. and TERRA TEXAS LAND COMPANY, LLC d/b/a Seber Lane Recycling Center, Docket No. 2013-0246-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. 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 Respondents. Respondents are 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.
4. If Respondents fail 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, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive 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 Respondents 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 Respondents, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondents, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

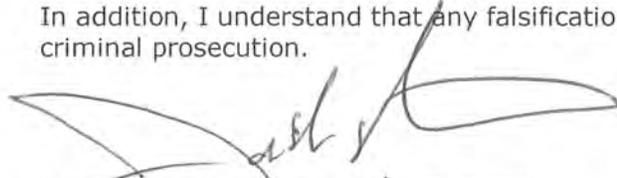
August 23, 2013
Date

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 Absolutely Outdoors, Ltd. and TERRA TEXAS LAND COMPANY, LLC d/b/a Seber Lane Recycling Center, 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 - Josh Milne, President
TERRA TEXAS LAND COMPANY, LLC

8-20-13
Date



Signature - Josh Milne, President
Absolutely Outdoors, Ltd.
[JPM Outdoor Management, LLC, General Partner]

8-20-13
Date