

Executive Summary – Enforcement Matter – Case No. 44909

EMPIRE DISPOSAL, LTD.

RN105246409

Docket No. 2012-1806-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - AIR, MSW, IHW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Empire Disposal, located south of Green Circle Road near Kennedale, Tarrant County

Type of Operation:

Refuse disposal facility with a wood waste processor and a permanent air curtain incinerator ("ACI")

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 21, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$51,050

Amount Deferred for Expedited Settlement: \$10,210

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$40,840

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

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EMPIRE DISPOSAL, LTD.
RN105246409
Docket No. 2012-1806-MLM-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 30, 2011, January 18, 2012, and June 20, 2012

Date(s) of NOE(s): April 26, 2012, August 14, 2012, and October 16, 2012

Violation Information

1. Failed to obtain proper authorization prior to operation of an ACI. Specifically, Respondent was operating the ACI without meeting the conditions of 30 TEX. ADMIN. CODE § 106.496 [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].
2. Failed to certify compliance for at least each 12-month period following initial permit issuance and also failed to include a signed certification of accuracy and completeness by a responsible official. Specifically, the permit compliance certification (“PCC”) submitted on March 2, 2011 for the certification period from February 16, 2010 through February 15, 2011 did not certify compliance from February 16 through 24, 2010 and was not properly certified [30 TEX. ADMIN. CODE §§ 122.143(4) and (15), 122.146(1), and 122.165(b) and (c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit (“FOP”) No. O3227/General Operating Permit (“GOP”) No. 518, Terms and Conditions (b)(2) and (b)(3)(D)(i)].
3. Failed to submit a complete and accurate semi-annual deviation report within 30 days after the end of the reporting period. Specifically, the semi-annual deviation report for the reporting period from February 16 through August 15, 2010 was due by September 14, 2010, but was not submitted until September 16, 2011, did not include a description of corrective actions or preventative measures taken, and was not properly certified [30 TEX. ADMIN. CODE §§ 122.143(4) and (15), 122.145(2)(A) and (C), and 122.165(b) and (c), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O3227/GOP No. 518, Terms and Conditions (b)(2), (b)(3)(C)(ii)(a), and (b)(3)(C)(ii)(c)].
4. Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not performed for the following 10 waste streams: nine drums that contained unknown materials and five containers of used oil [30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.513 and 40 CODE OF FEDERAL REGULATIONS (“CFR”) § 262.11].
5. Failed to prevent the unauthorized disposal of municipal solid waste (“MSW”). Specifically, approximately 16,464 cubic yards of MSW consisting of wooden pallets, construction and demolition debris, brush, leaves, wooden logs, plastic bags, and an old mattress were disposed of at the Site [30 TEX. ADMIN. CODE § 330.15(c)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By January 31, 2012, Respondent had retrained personnel responsible for ensuring the timely submittal of PCCs and semi-annual deviation reports, and created calendar reminders for key dates and deadlines.

Technical Requirements:

The Order will require Respondent to:

- a. Immediately, cease any additional unauthorized storage and disposal of MSW at the Site.
- b. Within 30 days:
 - i. Remove all unauthorized MSW from the Site, determine the full extent and nature of contamination around the areas of spilled material and the areas near the buried, piled, and spread ash, remove the contaminated material, and dispose of it at an authorized facility;
 - ii. Conduct hazardous waste determinations and waste classifications for all waste generated at the Site;
 - iii. Submit a properly certified PCC for the certification period from February 16, 2010 through February 15, 2011 to the Dallas/Fort Worth Regional Office; and
 - iv. Submit written certification that the Site can satisfy all of the conditions of 30 TEX. ADMIN. CODE § 106.496, or submit an administratively complete permit application.
- c. If a permit application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing.
- d. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions a. and b.
- e. If a permit application is submitted, then within 180 days, submit written certification that either authorization to operate the ACI has been obtained or that operation of the ACI has ceased until such time that appropriate authorization is obtained.

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EMPIRE DISPOSAL, LTD.

RN105246409

Docket No. 2012-1806-MLM-E

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Kimberly Morales, Enforcement Division,
Enforcement Team 5, MC R-12, (713) 422-8938; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Sandra McGlothlin, President, EMPIRE DISPOSAL, LTD., 5301 Sun
Valley Drive, Fort Worth, Texas 76119

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	22-Oct-2012	Screening	14-Nov-2012	EPA Due	
	PCW	14-Nov-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	EMPIRE DISPOSAL, LTD.
Reg. Ent. Ref. No.	RN105246409
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	44909	No. of Violations	1
Docket No.	2012-1806-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kimberly Morales
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,250
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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	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$625
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Notes: Reduction due to high 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	\$533
Approx. Cost of Compliance	\$5,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,625
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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 \$5,625

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,625
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,125
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,500
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Screening Date 14-Nov-2012

Docket No. 2012-1806-MLM-E

PCW

Respondent EMPIRE DISPOSAL, LTD.

Policy Revision 3 (September 2011)

Case ID No. 44909

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105246409

Media [Statute] Air

Enf. Coordinator Kimberly Morales

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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Reduction due to high performer classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 14-Nov-2012

Docket No. 2012-1806-MLM-E

PCW

Respondent EMPIRE DISPOSAL, LTD.

Policy Revision 3 (September 2011)

Case ID No. 44909

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105246409

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to obtain proper authorization prior to operation of an air curtain incinerator ("ACI"). Specifically, the Respondent was operating the ACI without meeting the conditions of 30 Tex. Admin. Code § 106.496.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			5.0%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 5 Number of violation days 411

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

Violation Base Penalty \$6,250

Five quarterly events are recommended from the September 30, 2011 investigation date to the November 14, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$6,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$533

Violation Final Penalty Total \$5,625

This violation Final Assessed Penalty (adjusted for limits) \$5,625

Economic Benefit Worksheet

Respondent EMPIRE DISPOSAL, LTD.
Case ID No. 44909
Reg. Ent. Reference No. RN105246409
Media Air
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
<small>No commas or \$</small>							

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	\$5,000	30-Sep-2011	16-Nov-2013	2.13	\$533	n/a	\$533
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain proper authorization for the ACI. The date required is the date of the investigation. The final date is the date that corrective measures are expected to be completed.

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

\$5,000

TOTAL

\$533



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	30-Apr-2012	Screening	25-May-2012	EPA Due	
	PCW	22-Mar-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	EMPIRE DISPOSAL, LTD.
Reg. Ent. Ref. No.	RN105246409
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	44909	Order Type	1660
Docket No.	2012-1806-MLM-E	Government/Non-Profit	No
Media Program(s)	Air	Enf. Coordinator	Kimberly Morales
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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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	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$200
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Notes	Reduction due to high performer classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$85	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,550
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Notes		
Final Penalty Amount		\$1,550

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,550
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DEFERRAL	20.0% Reduction	Adjustment	-\$310
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Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$1,240
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Screening Date 25-May-2012

Docket No. 2012-1806-MLM-E

PCW

Respondent EMPIRE DISPOSAL, LTD.

Policy Revision 2 (September 2002)

Case ID No. 44909

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105246409

Media [Statute] Air

Enf. Coordinator Kimberly Morales

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)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction due to high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 25-May-2012

Docket No. 2012-1806-MLM-E

PCW

Respondent EMPIRE DISPOSAL, LTD.

Policy Revision 2 (September 2002)

Case ID No. 44909

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105246409

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and (15), 122.146(1), and 122.165(b) and (c), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. O3227/General Operating Permit ("GOP") No. 518, Terms and Conditions (b)(2) and (b)(3)(D)(I)

Violation Description

Failed to certify compliance for at least each 12-month period following initial permit issuance. Also, failed to include a signed certification of accuracy and completeness by a responsible official. Specifically, the permit compliance certification ("PCC") submitted on March 2, 2011 for the certification period from February 16, 2010 through February 15, 2011 did not certify compliance from February 16 through 24, 2010 and was not properly certified.

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
	x		

Percent

10%

Matrix Notes

The Respondent failed to meet more than 70% of the rule requirement.

Adjustment

\$9,000

\$1,000

Violation Events

Number of Violation Events

1

435

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty

\$1,000

One single event is recommended for the one PCC.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

\$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$67

Violation Final Penalty Total

\$900

This violation Final Assessed Penalty (adjusted for limits)

\$900

Economic Benefit Worksheet

Respondent EMPIRE DISPOSAL, LTD.
Case ID No. 44909
Reg. Ent. Reference No. RN105246409
Media Air
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	\$250	17-Mar-2011	31-Jan-2012	0.88	\$11	n/a	\$11
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	17-Mar-2011	19-Jun-2013	2.26	\$57	n/a	\$57

Notes for DELAYED costs

Estimated cost to submit the PCC for the certification period from February 16, 2010 through February 15, 2011 and to implement measures and procedures to ensure the timely and accurate submittal of PCCs. The date required was the due date for the PCC. The final dates are the date of compliance and the date that corrective measures are expected to be completed.

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

\$750

TOTAL

\$67

Screening Date 25-May-2012

Docket No. 2012-1806-MLM-E

PCW

Respondent EMPIRE DISPOSAL, LTD.

Policy Revision 2 (September 2002)

Case ID No. 44909

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105246409

Media [Statute] Air

Enf. Coordinator Kimberly Morales

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and (15), 122.145(2)(A) and (C), and 122.165(b) and (c), Tex. Health & Safety Code § 382.085(b), and FOP No. O3227/GOP No. 518, Terms and Conditions (b)(2), (b)(3)(C)(ii)(a), and (b)(3)(C)(ii)(c)

Violation Description

Failed to submit a complete and accurate semi-annual deviation report within 30 days after the end of the reporting period. Specifically, the semi-annual deviation report for the reporting period from February 16 through August 15, 2010 was due by September 14, 2010, but was not submitted until September 16, 2011, did not include a description of corrective actions or preventative measures taken, and was not properly certified.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

The Respondent failed to meet more than 70% of the rule requirement.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

504 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended for the one semi-annual deviation report.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent completed corrective measures by January 31, 2012, prior to the April 26, 2012 NOE.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$650

This violation Final Assessed Penalty (adjusted for limits) \$650

Economic Benefit Worksheet

Respondent EMPIRE DISPOSAL, LTD.
Case ID No. 44909
Reg. Ent. Reference No. RN105246409
Media Air
Violation No. 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	\$250	14-Sep-2010	31-Jan-2012	1.38	\$17	n/a	\$17
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement measures and procedures to ensure the timely submittal of semi-annual deviation reports. The date required was the due date for the semi-annual deviation report. The final date is the date that corrective measures were completed.

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

\$250

TOTAL

\$17



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	28-Aug-2012	Screening	29-Aug-2012	EPA Due	
	PCW	14-Nov-2012				

RESPONDENT/FACILITY INFORMATION			
Respondent	EMPIRE DISPOSAL, LTD.		
Reg. Ent. Ref. No.	RN105246409		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	44909	No. of Violations	2
Docket No.	2012-1806-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Industrial and Hazardous Waste	Enf. Coordinator	Kimberly Morales
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$48,750
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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	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$4,875
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Notes	Reduction due to high performer classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$12,603	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$252,755	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$43,875
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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	
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Final Penalty Amount	\$43,875
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$43,875
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DEFERRAL	20.0% Reduction	Adjustment	-\$8,775
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$35,100
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Screening Date 29-Aug-2012

Docket No. 2012-1806-MLM-E

PCW

Respondent EMPIRE DISPOSAL, LTD.

Policy Revision 3 (September 2011)

Case ID No. 44909

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105246409

Media [Statute] Municipal Solid Waste

Enf. Coordinator Kimberly Morales

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)**

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes

Reduction due to high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% -10%

Screening Date 29-Aug-2012
Respondent EMPIRE DISPOSAL, LTD.
Case ID No. 44909
Reg. Ent. Reference No. RN105246409
Media [Statute] Municipal Solid Waste
Enf. Coordinator Kimberly Morales

Docket No. 2012-1806-MLM-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 335.62, 335.503, and 335.513 and 40 Code of Federal Regulations § 262.11

Violation Description
 Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not performed for the following 10 waste streams: nine drums that contained unknown materials and five containers of used oil.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					<input type="text" value="15.0%"/>
Potential	<input checked="" type="checkbox"/>				

>> Programmatic Matrix

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

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

mark only one with an x	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Ten single events (one event for each waste stream) are recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	(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 EMPIRE DISPOSAL, LTD.
Case ID No. 44909
Reg. Ent. Reference No. RN105246409
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	\$42,000	20-Jun-2012	19-Jun-2013	1.00	\$2,094	n/a	\$2,094
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct hazardous waste determinations and waste classifications. The date required is the date of the investigation. The final date is the date that corrective measures are expected to be completed.

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

\$42,000

TOTAL

\$2,094

Screening Date 29-Aug-2012
Respondent EMPIRE DISPOSAL, LTD.
Case ID No. 44909
Reg. Ent. Reference No. RN105246409
Media [Statute] Municipal Solid Waste
Enf. Coordinator Kimberly Morales

Docket No. 2012-1806-MLM-E

PCW

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

Violation Number 2

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 16,464 cubic yards of MSW consisting of wooden pallets, construction and demolition debris, brush, leaves, wooden logs, plastic bags, and an old mattress were disposed of at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which 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 3

70 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the June 20, 2012 investigation date to the August 29, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10,509

Violation Final Penalty Total \$10,125

This violation Final Assessed Penalty (adjusted for limits) \$10,125

Economic Benefit Worksheet

Respondent EMPIRE DISPOSAL, LTD.
Case ID No. 44909
Reg. Ent. Reference No. RN105246409
Media Municipal Solid Waste
Violation No. 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	\$210,755	20-Jun-2012	19-Jun-2013	1.00	\$10,509	n/a	\$10,509
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 16,464 cubic yards of MSW from the Site and dispose of it at an authorized facility. The date required is the date of the investigation. The final date is the date that corrective measures are expected to be completed.

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

\$210,755

TOTAL

\$10,509



Compliance History Report

PUBLISHED Compliance History Report for CN603205295, RN105246409, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN603205295, Empire Disposal, Ltd.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN105246409, EMPIRE DISPOSAL	Classification: HIGH	Rating: 0.00
Complexity Points:	7	Repeat Violator: NO	
CH Group:	09 - Construction		
Location:	SOUTH OF GREEN CIRCLE ROAD NEAR KENNEDALE, TARRANT COUNTY, TEXAS		
TCEQ Region:	REGION 04 - DFW METROPLEX		

ID Number(s):			
AIR NEW SOURCE PERMITS REGISTRATION 87399		AIR NEW SOURCE PERMITS ACCOUNT NUMBER TAA026Z	
AIR NEW SOURCE PERMITS AFS NUM 4843901703		AIR EMISSIONS INVENTORY ACCOUNT NUMBER TAA026Z	
AIR OPERATING PERMITS PERMIT 3227		MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455040202	

Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year: 2012	Rating Date: 09/01/2012
Date Compliance History Report Prepared:	January 15, 2013		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	October 22, 2007 to October 22, 2012		

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Kimberly Morales **Phone:** (713) 422-8938

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:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
Item 1 May 15, 2012 (987701)

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.
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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EMPIRE DISPOSAL, LTD.
RN105246409**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2012-1806-MLM-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding EMPIRE DISPOSAL, LTD. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a refuse disposal facility with a wood waste processor and a permanent air curtain incinerator ("ACI") located south of Green Circle Road near Kennedale in Tarrant County, Texas (the "Site").
2. The Site involves or involved the management of municipal solid waste ("MSW") and industrial waste as defined in TEX. HEALTH & SAFETY CODE ch. 361 and consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 1, August 19, and October 21, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifty-One Thousand Fifty Dollars (\$51,050) is assessed by the Commission in settlement of the violations alleged in Section II

- ("Allegations"). The Respondent has paid Forty Thousand Eight Hundred Forty Dollars (\$40,840) of the administrative penalty and Ten Thousand Two Hundred Ten Dollars (\$10,210) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. 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.
 8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 9. The Executive Director recognizes that by January 31, 2012, the Respondent had retrained personnel responsible for ensuring the timely submittal of permit compliance certifications ("PCCs") and semi-annual deviation reports, and created calendar reminders for key dates and deadlines.
 10. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 11. 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.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to obtain proper authorization prior to operation of an ACI, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on September 30, 2011. Specifically, the Respondent was operating the ACI without meeting the conditions of 30 TEX. ADMIN. CODE § 106.496.
2. Failed to certify compliance for at least each 12-month period following initial permit issuance and also failed to include a signed certification of accuracy and completeness by a responsible official, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and (15), 122.146(1), and 122.165(b) and (c), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O3227/General Operating Permit ("GOP") No. 518, Terms and Conditions (b)(2) and (b)(3)(D)(i), as documented during a record review conducted on January 18, 2012. Specifically, the PCC submitted on March 2, 2011

for the certification period from February 16, 2010 through February 15, 2011 did not certify compliance from February 16 through 24, 2010 and was not properly certified.

3. Failed to submit a complete and accurate semi-annual deviation report within 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and (15), 122.145(2)(A) and (C), and 122.165(b) and (c), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O3227/GOP No. 518, Terms and Conditions (b)(2), (b)(3)(C)(ii)(a), and (b)(3)(C)(ii)(c), as documented during a record review conducted on January 18, 2012. Specifically, the semi-annual deviation report for the reporting period from February 16 through August 15, 2010 was due by September 14, 2010, but was not submitted until September 16, 2011, did not include a description of corrective actions or preventative measures taken, and was not properly certified.
4. Failed to conduct hazardous waste determinations and waste classifications, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.513 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11, as documented during an investigation conducted on June 20, 2012. Specifically, hazardous waste determinations and waste classifications were not performed for the following 10 waste streams: nine drums that contained unknown materials and five containers of used oil.
5. Failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on June 20, 2012. Specifically, approximately 16,464 cubic yards of MSW consisting of wooden pallets, construction and demolition debris, brush, leaves, wooden logs, plastic bags, and an old mattress were disposed of at the Site.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: EMPIRE DISPOSAL, LTD., Docket No. 2012-1806-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease any additional unauthorized storage and disposal of MSW at the Site;
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Remove all unauthorized MSW from the Site, determine the full extent and nature of contamination around the areas of spilled material and the areas near the buried, piled, and spread ash, remove the contaminated material, and dispose of it at an authorized facility;
 - ii. Conduct hazardous waste determinations and waste classifications for all waste generated at the Site, in accordance with 30 TEX. ADMIN. CODE §§ 335.62, 335.503, 335.513 and 40 CFR § 262.11;
 - iii. Submit a properly certified PCC for the certification period from February 16, 2010 through February 15, 2011 to the Dallas/Fort Worth Regional Office at the address provided in Ordering Provision No. 2.f.; and
 - iv. Submit written certification as described in Ordering Provision No. 2.f. below that the Site can satisfy all of the conditions of 30 TEX. ADMIN. CODE § 106.496, or submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

Air Permits Division, MC 162
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - c. If a permit application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing;
 - d. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.;
 - e. If a permit application is submitted, then within 180 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below that either authorization to operate the ACI has been obtained or that operation of the ACI has ceased until such time that appropriate authorization is obtained; and
 - f. The certification required by Ordering Provision Nos. 2.b.iv., 2.d., and 2.e. above shall include detailed supporting documentation including receipts and/or other

records to demonstrate compliance, be notarized by a State of Texas Notary Public, and 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with copies to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Novak
For the Executive Director

7/3/13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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, if any, 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 submitted;
- 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, any falsification of any compliance documents may result in criminal prosecution.

Sandra McGlothlin
Signature

4/12/13
Date

Sandra McGlothlin
Name (Printed or typed)
Authorized Representative of
EMPIRE DISPOSAL, LTD.

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.