

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 26, 2010

Via Facsimile to (512) 475-4994 and Via Interagency Mail

The Honorable Howard S. Seitzman  
State Office of Administrative Hearings  
300 West 15<sup>th</sup> Street, Suite 502  
P.O. Box 13025  
Austin, Texas 78711-3025

Re: Texas Commission on Environmental Quality ("TCEQ") Enforcement Proceeding  
Against Michael French dba Hiram Waste & Recycling, Inc.  
TCEQ Docket No. 2008-0289-MSW-E  
SOAH Docket No. 582-09-3604

Dear Judge Seitzman:

Enclosed please find the Executive Director's Exceptions to the Administrative Law Judge's Proposed Order regarding the above-referenced matter. If you have any questions, please do not hesitate to call me at (512) 239-0974. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Anna Treadwell".

Anna Treadwell  
Attorney  
Litigation Division

Enclosure

cc: TCEQ Chief Clerk (electronic filing)  
Mr. Clinton Sims, Enforcement Division, TCEQ, MC 128  
Mr. Blas Coy, Public Interest Counsel, TCEQ, MC 103  
Mr. Les Trobman, Office of General Counsel, TCEQ, MC 101  
Mr. Michael French, 17 Wimbledon Court, Heath, Texas 75032

SOAH DOCKET NO. 582-09-3604  
TCEQ DOCKET NO. 2008-0289-MSW-E

EXECUTIVE DIRECTOR OF THE	§	BEFORE THE
TEXAS COMMISSION ON	§	
ENVIRONMENTAL QUALITY,	§	
PETITIONER	§	
	§	STATE OFFICE OF
VS.	§	
	§	
MICHAEL FRENCH DBA HIRAM	§	
WASTE & RECYCLING, INC.,	§	ADMINISTRATIVE HEARINGS
RESPONDENT	§	

**EXECUTIVE DIRECTOR'S EXCEPTIONS TO THE ADMINISTRATIVE LAW  
JUDGE'S PROPOSED ORDER**

NOW COMES the Executive Director, by and through his attorney, Anna Treadwell, and submits the following proposal to modify the Administrative Law Judge's Proposed Order. While the Executive Director agrees with the substance of the Proposed Order, these suggested modifications are intended to clarify the provisions of the Order and to correct typographical errors. These suggested modifications are proposed pursuant to 30 TEX. ADMIN. CODE § 80.257.

The Executive Director recommends the following modifications:

1. Add a period after "Ms" in Findings of Fact No. 4.
2. Add a period to the end Findings of Fact No. 8.
3. Revise Finding of Fact No. 15 to add a comma between the one and the zero to the penalty amount so that it reads "\$1,000.00".
4. Place a space between "December" and the numeral 11 in Findings of Fact No. 24.
5. Remove the space between the decimal point and zero in the rule citation "2001. 051(1)" so that it reads, "2001. 051(1)" in Conclusions of Law No. 6.
6. Add the following to second sentence to Conclusions of Law No. 1, "Mr. French shall pay this administrative penalty within 30 days after the effective date of this Order."

PRAYER

To the extent that the Administrative Law Judge's Proposal for Decision is inconsistent with these recommended modifications, the Executive Director accepts to the Proposal for Decision. Copies of the Proposed Order with the recommended modifications are attached. Attachment "A" is a redline/strikeout version which clearly delineates the recommended modifications. Attachment "B" is a copy of the Proposed Order incorporating the Executive Director's recommended changes.

Respectfully submitted,

Texas Commission on Environmental  
Quality

Mark R. Vickery, P.G.  
Executive Director

Stephanie Bergeron Perdue, Deputy Director  
Office of Legal Services

Kathleen C. Decker, Division Director  
Litigation Division

by 

Anna Treadwell  
State Bar of Texas No. 24053154  
Litigation Division, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087  
(512) 239-3400  
(512) 239-3434 (FAX)

## CERTIFICATE OF SERVICE

I hereby certify that on this 25<sup>th</sup> day of February, 2010, the original of the foregoing Executive Director's Exceptions to the Administrative Law Judge's Proposed Order ("Exceptions") was filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day true and correct copies of the foregoing Exceptions were mailed to the following persons by the method of service indicated:

Mr. Michael French  
17 Wimbledon Court  
Heath, Texas 75032

Via Certified Mail, Return Receipt  
Requested (Article No. 7004 1350 0002  
7559 0064)

The Honorable Howard S. Seitzman  
State Office of Administrative Hearings  
300 West 15<sup>th</sup> Street, Suite 502  
P.O. Box 13025  
Austin, Texas 78711-3025

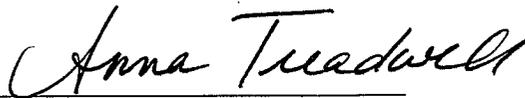
Via interagency mail and via facsimile to  
(512) 475-4994

Mr. Blas Coy  
Office of the Public Interest Counsel  
Texas Commission on Environmental Quality  
Mail Code 103

Via Electronic Mail

Mr. Les Trobman  
Office of General Counsel  
Texas Commission on Environmental Quality  
Mail Code 101

Via Electronic Mail



Anna Treadwell  
Attorney  
Litigation Division  
Texas Commission on Environmental Quality

## Attachment A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN ORDER Assessing Administrative Penalties Against  
and Requiring Corrective Action By  
MICHAEL FRENCH DBA HIRAM WASTE & RECYCLING, INC.  
SOAH DOCKET NO. 582-09-3604  
TCEQ DOCKET NO. 2008-0289-MSW-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality (Commission or TCEQ) considered the Executive Director's Report and Petition (EDPRP) recommending that the Commission enter an enforcement order assessing administrative penalties against and requiring corrective action by Michael French dba Hiram Waste & Recycling, Inc. (Respondent). Howard S. Seitzman, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), conducted a public hearing on this matter on December 11, 2009, in Austin, Texas, and presented the Proposal for Decision.

The parties to the proceeding are Respondent; the Commission's Executive Director (ED), represented by Anna M. Treadwell, attorney in TCEQ's Litigation Division; and the Office of Public Interest Counsel. After considering the ALJ's Proposal for Decision, the Commission makes the following Findings of Fact and Conclusions of Law.

**I. FINDINGS OF FACT**

1. Respondent owns real property used for an unauthorized landfill located on County Road 148, approximately 600 yards southwest of the intersection of County Road 148 and Interstate 20, in Terrell, Kaufman County, Texas (Site).
2. On October 25, 2007, Dallas/Ft. Worth Region 4 Environmental Investigator Paula Sen, accompanied by Environmental Investigator Dorothy Lewis and Kaufman County Deputy

Walter Dykes, conducted an investigation of the Site.

3. The investigation was triggered by a complaint that Hiram Waste & Recycling, Inc., owned by Respondent, was accumulating residential waste receptacles at the Site. That complaint was not substantiated. However, during the investigation Ms. Sen observed violations of the solid waste management rules and regulations.
4. While in transit to the Site on October 25, 2007, Ms. Sen contacted Hiram Waste to notify Mr. French that she would be inspecting the Site. She spoke with Laura French. When Ms. Sen arrived at the Site the gates to the Site were closed and locked. Though Mr. French was at the Site, he denied her access to the Site. Ms. Sen made observations and took photographs from the perimeter of the Site.
5. Ms. Sen's observed and documented unauthorized composting and recycling operations on the Site.
6. Located on the Site were five cubic yard pile of pallets; 40 cubic yards of mixed wood debris, organic mulch, and entrained plastic; roll-off boxes containing brush, bagged grass, leaves and trash; seven 10- to 20-cubic yard containers (one covered) with unknown contents; and two small chippers located near some wood board and pallet piles. At the rear of the property and above grade, were approximately 100 cubic yards of bagged organic mulch, including some ten cubic yards of plastic bags and plastic landscaping trays. Plastic and metal trash was present in a graded area near the creek. Approximately two cubic yards of plastic, brake fluid containers, and PVC waste was in the area of a tree root hole and was exposed when a tree was uprooted. Also present on the Site was a five cubic yard pile of brush and a 40 cubic yard pile of trees.
7. There was an unnatural embankment near the location where waste was being buried during the September 22, 2006 investigation.
8. Respondent has not registered or filed a Notice of Intent for the Site under the name Michael French or Hiram Waste & Recycling, Inc.

9. On January 28, 2008, Sam Barrett, TCEQ Region 4 Waste Section Manager, sent a Notice of Enforcement to Respondent.
10. On January 30, 2009, the ED issued the Executive Director's Preliminary Report and Petition (EDPRP) in accordance with TEX. WATER CODE ANN. § 7.054, alleging that Respondent violated 30 TEX. ADMIN. CODE § 330.15(c) by failing to prevent the disposal of municipal solid waste (MSW) at an unauthorized site.
11. The ED recommended the imposition of an administrative penalty in the amount of \$2,000.00, and corrective action to bring the site into compliance.
12. Ms. Sen, accompanied by TCEQ Region 4 Air Program Environmental Investigator Amy Pritchett, conducted a follow-up investigation on October 16, 2009. Though notified of the Site visit, the Frenches were unavailable and the gate was locked. Although three trucks were parked near the mobile home located on the Site, no one responded to Ms. Sen's automobile horn. The Site was again inspected from the perimeter.
13. Landscape timbers, boards, brush, textured organic waste, mixed organic waste, a refrigerator, scrap tires, used shingles, scrap metal, scrap aluminum, dumpsters of unknown material, and 55-gallon drums with unknown contents were present on the Site. There was aerial filling near the front of the property and subgrade filling at the rear of the property.
14. During the October 16, 2009 inspection, Respondent was still accumulating and burying or aerial filling waste and conducting unauthorized composting or recycling operations.
15. The proposed penalty is based upon two quarterly violations of \$1,000.00 each during the period spanning October 25, 2007, through February 14, 2008.
16. The proposed penalty does not include an enhancement for a November 13, 2008 Order based upon Michael French's failure to prevent the disposal of MSW at an unauthorized Site.
17. The proposed penalty does not include violations observed during the October 16, 2009 inspection.

18. The ED does not request a penalty for denying TCEQ inspectors access to the Site.
19. On February 20, 2009, Respondent requested a contested case hearing on the allegations in the EDPRP.
20. On April 2, 2009, the ED requested the case be referred to SOAH and it was referred.
21. On May 11, 2009, the Commission's Chief Clerk issued a notice of the preliminary hearing to all parties, which included the date, time, and place of the hearing, the legal authority under which the hearing was being held, and the violations asserted.
22. On June 18, 2009, a preliminary hearing was held with Respondent and the ED appearing.
23. At approximately 4:00 p.m. on November 18, 2009, Respondent filed a Motion for Continuance (Continuance Motion) of the hearing on the merits scheduled for 10:00 on November 19, 2009. The Continuance Motion stated Respondent was ill and that contact should be made with Respondent's daughter-in-law Emily L. French. The ED filed a Response to the Continuance Motion at 4:55 p.m. on November 18, 2009, opposing a continuance.
24. On November 19, 2009, Anna Treadwell, counsel for the ED, appeared with her witnesses at the hearing on the merits. The ALJ convened an off-the-record telephone call with Ms. Treadwell, Ms. Emily French, and, by permission, with Respondent's physician Dr. Robert Sparks. Based upon the representations of Dr. Sparks that Respondent could not travel due to illness, the ED no longer opposed the continuance. The hearing on the merits was reset to December 11, 2009.
25. On December 11, 2009, SOAH ALJ convened the hearing on the merits in a SOAH hearing room in Austin, Texas. The ED appeared and was represented by Anna Treadwell, staff attorney. Respondent was initially on the telephone but became perturbed when the style of the case was read into the record. He disconnected himself from the call after indicating he would not participate in the hearing on the merits. The hearing proceeded in his absence and

the record was closed that same day.

26. The ALJ issued the Proposal for Decision on February 9, 2010.

## II. CONCLUSIONS OF LAW

1. Under TEX. WATER CODE ANN. § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the Texas Water Code , the Texas Health & Safety Code, or any rule, order, or permit adopted or issued thereunder.
2. Under TEX. WATER CODE ANN. § 7.052(c), a penalty may not exceed \$10,000 per violation, per day, for the violations at issue in this case.
3. Respondent is subject to the Commission's enforcement authority, pursuant to TEX. WATER CODE ANN. §§ 5.013 and 7.002.
4. Additionally, the Commission may order the violator to take corrective action. TEX. WATER CODE ANN. § 7.073.
5. As required by TEX. WATER CODE ANN. § 7.055 and 30 TEX. ADMIN. CODE §§ 1.11 and 70.104, Respondent was notified of the EDPRP and of the opportunity to request a hearing on the alleged violations or the penalties or corrective actions proposed therein.
6. As required by TEX. GOV'T CODE ANN. §§ 2001.051(1) and 2001.052; ~~TEX. WATER CODE ANN. § 7.058; 1 TEX. ADMIN. CODE § 155.401, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.25, 70.104, and 80.6,~~ Respondent was notified of the hearing on the alleged violations and the proposed penalties.
7. SOAH has jurisdiction over matters related to the hearing in this matter, including the authority to issue a Proposal for Decision with Findings of Fact and Conclusions of Law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.

Deleted:

8. A person may not cause, suffer, allow, or permit the dumping or disposal of MSW without the written authorization of the commission. 30 TEX. ADMIN. CODE § 330.15(c).
9. Municipal solid waste is solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste. 30 TEX. ADMIN. CODE § 330.3(88).
10. Recyclable material may become a solid waste if it is abandoned or disposed of rather than recycled. 30 TEX. ADMIN. CODE § 330.3(122).
11. Respondent is not a qualified recycling/composting facility.
12. The Site involves the management and /or disposal of MSW. TEX. HEALTH & SAFETY CODE ch. 361.
13. Respondent violated 30 TEX. ADMIN. CODE § 330.15(c).
14. In determining the amount of an administrative penalty, the Commission must consider several factors, as required by TEX. WATER CODE ANN. § 7.053, including:
  - The impact or potential impact on public health and safety, natural resources and their uses, and other persons;
  - The nature, circumstances, extent, duration, and gravity of the prohibited act;
  - The history and extent of previous violations by the violator;
  - The violator's degree of culpability, good faith, and economic benefit gained through the violation;
  - The amount necessary to deter future violations; and
  - Any other matters that justice may require.
15. The Commission has adopted a Penalty Policy setting forth its policy regarding the computation and assessment of administrative penalties, effective September 1, 2002.
16. An administrative penalty of \$2,000.00 is justified and should be assessed against

Respondent.

17. Respondent should be required to take the corrective action set forth below.

**NOW, THEREFORE, IT IS ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:**

1. Michael French dba Hiram Waste & Recycling is assessed an administrative penalty in the amount of \$2,000.00 for violations of 30 TEX. ADMIN. CODE § 330.15(c). Mr. French shall pay this administrative penalty within 30 days after the effective date of this Order. The payment of this administrative penalty and Mr. French's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. All checks submitted to pay the penalty assessed by this Order shall be made out to "Texas Commission on Environmental Quality." Administrative penalty payments shall be sent with the notation "Re: Michael French dba Hiram Waste & Recycling, Inc.; Docket No. 2008-02899-MSW-E" to:

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

2. Immediately upon the effective date of this Order, Mr. French shall cease to cause, suffer, allow, or permit any additional municipal solid waste to be stored, processed, or disposed of at the Site.
3. Within 30 days after the effective date of the Commission Order, Mr. French shall remove all

municipal solid waste at the Site and dispose of the waste at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 330.15(c).

4. Within 45 days after the effective date of the Commission Order, Mr. French shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with the above ordering provisions. The certification shall 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 fine and imprisonment for knowing violations.”

The written certification and copies of documentation necessary to demonstrate compliance with the ordering provisions 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 a copy to:

Mr. Sam Barrett, Waste Section Manager  
Texas Commission on Environmental Quality  
Dallas/Fort Worth Regional Office  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (OAG) for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Commission Order.

7. All other motions, requests for entry of specific Findings of Fact or Conclusions of Law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.
8. The effective date of this Order is the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 80.273 and TEX. GOV'T CODE ANN. § 2001.144.
9. As required by TEX. WATER CODE ANN. § 7.059, the Commission's Chief Clerk shall forward a copy of this Order to Respondent.
10. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

ISSUED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
Bryan W. Shaw, Ph.D., Chairman  
For the Commission

## Attachment B

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**



**AN ORDER Assessing Administrative Penalties Against  
and Requiring Corrective Action By  
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7. There was an unnatural embankment near the location where waste was being buried during the September 22, 2006 investigation.
8. Respondent has not registered or filed a Notice of Intent for the Site under the name Michael French or Hiram Waste & Recycling, Inc.

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24. On November 19, 2009, Anna Treadwell, counsel for the ED, appeared with her witnesses at the hearing on the merits. The ALJ convened an off-the-record telephone call with Ms. Treadwell, Ms. Emily French, and, by permission, with Respondent's physician Dr. Robert Sparks. Based upon the representations of Dr. Sparks that Respondent could not travel due to illness, the ED no longer opposed the continuance. The hearing on the merits was reset to December 11, 2009.
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26. The ALJ issued the Proposal for Decision on February 9, 2010.

## **II. CONCLUSIONS OF LAW**

1. Under TEX. WATER CODE ANN. § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the Texas Water Code, the Texas Health & Safety Code, or any rule, order, or permit adopted or issued thereunder.
2. Under TEX. WATER CODE ANN. § 7.052(c), a penalty may not exceed \$10,000 per violation, per day, for the violations at issue in this case.
3. Respondent is subject to the Commission's enforcement authority, pursuant to TEX. WATER CODE ANN. §§ 5.013 and 7.002.
4. Additionally, the Commission may order the violator to take corrective action. TEX. WATER CODE ANN. § 7.073.
5. As required by TEX. WATER CODE ANN. § 7.055 and 30 TEX. ADMIN. CODE §§ 1.11 and 70.104, Respondent was notified of the EDPRP and of the opportunity to request a hearing on the alleged violations or the penalties or corrective actions proposed therein.
6. As required by TEX. GOV'T CODE ANN. §§ 2001.051(1) and 2001.052; TEX. WATER CODE ANN. § 7.058; 1 TEX. ADMIN. CODE § 155.401, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.25, 70.104, and 80.6, Respondent was notified of the hearing on the alleged violations and the proposed penalties.
7. SOAH has jurisdiction over matters related to the hearing in this matter, including the authority to issue a Proposal for Decision with Findings of Fact and Conclusions of Law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.

8. A person may not cause, suffer, allow, or permit the dumping or disposal of MSW without the written authorization of the commission. 30 TEX. ADMIN. CODE § 330.15(c).
9. Municipal solid waste is solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste. 30 TEX. ADMIN. CODE § 330.3(88).
10. Recyclable material may become a solid waste if it is abandoned or disposed of rather than recycled. 30 TEX. ADMIN. CODE § 330.3(122).
11. Respondent is not a qualified recycling/composting facility.
12. The Site involves the management and /or disposal of MSW. TEX. HEALTH & SAFETY CODE ch. 361.
13. Respondent violated 30 TEX. ADMIN. CODE § 330.15(c).
14. In determining the amount of an administrative penalty, the Commission must consider several factors, as required by TEX. WATER CODE ANN. § 7.053, including:
  - The impact or potential impact on public health and safety, natural resources and their uses, and other persons;
  - The nature, circumstances, extent, duration, and gravity of the prohibited act;
  - The history and extent of previous violations by the violator;
  - The violator's degree of culpability, good faith, and economic benefit gained through the violation;
  - The amount necessary to deter future violations; and
  - Any other matters that justice may require.
15. The Commission has adopted a Penalty Policy setting forth its policy regarding the computation and assessment of administrative penalties, effective September 1, 2002.
16. An administrative penalty of \$2,000.00 is justified and should be assessed against

Respondent.

17. Respondent should be required to take the corrective action set forth below.

**NOW, THEREFORE, IT IS ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:**

1. Michael French dba Hiram Waste & Recycling is assessed an administrative penalty in the amount of \$2,000.00 for violations of 30 TEX. ADMIN. CODE § 330.15(c). Mr. French shall pay this administrative penalty within 30 days after the effective date of this Order. The payment of this administrative penalty and Mr. French's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. All checks submitted to pay the penalty assessed by this Order shall be made out to "Texas Commission on Environmental Quality." Administrative penalty payments shall be sent with the notation "Re: Michael French dba Hiram Waste & Recycling, Inc.; Docket No. 2008-02899-MSW-E" to:

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

2. Immediately upon the effective date of this Order, Mr. French shall cease to cause, suffer, allow, or permit any additional municipal solid waste to be stored, processed, or disposed of at the Site.
3. Within 30 days after the effective date of the Commission Order, Mr. French shall remove all

municipal solid waste at the Site and dispose of the waste at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 330.15(c).

4. Within 45 days after the effective date of the Commission Order, Mr. French shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with the above ordering provisions. The certification shall 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 fine and imprisonment for knowing violations.”

The written certification and copies of documentation necessary to demonstrate compliance with the ordering provisions 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 a copy to:

Mr. Sam Barrett, Waste Section Manager  
Texas Commission on Environmental Quality  
Dallas/Fort Worth Regional Office  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (OAG) for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Commission Order.

7. All other motions, requests for entry of specific Findings of Fact or Conclusions of Law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.
8. The effective date of this Order is the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 80.273 and TEX. GOV'T CODE ANN. § 2001.144.
9. As required by TEX. WATER CODE ANN. § 7.059, the Commission's Chief Clerk shall forward a copy of this Order to Respondent.
10. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

ISSUED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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Bryan W. Shaw, Ph.D., Chairman  
For the Commission