

Bill Dechert
RN105229645
Docket No. 2014-0361-MSW-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

MSW

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

343 N. US Highway 83, Junction, Kimble County

Type of Operation:

unauthorized municipal solid waste ("MSW") disposal site

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date:	August 29, 2014
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$23,000
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Total Paid to General Revenue:	\$11,500
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Total Due to General Revenue:	\$0
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SEP Conditional Offset:	\$11,500
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Name of SEP:	<i>Cleanup of Unauthorized Dumpsites - Kimble County, Colorado River Basin, and Edwards-Trinity Plateau Aquifer</i>
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Compliance History Classifications:

Person/CN – Unclassified
Site/RN – Unclassified

Major Source:	No
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Statutory Limit Adjustment:	None
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Applicable Penalty Policy:	September 2002
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Bill Dechert
RN105229645

Docket No. 2014-0361-MSW-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: October 16 and 17, 2013
Date(s) of NOV(s): N/A
Date(s) of NOE(s): January 30, 2014

Violation Information

Failed to prevent the unauthorized disposal of MSW (approx. 700 cu/yd. of MSW including construction and demolition debris, insulation, tires, concrete, and other waste) [30 TEX. ADMIN. CODE § 330.15(c) and TCEQ Agreed Order Docket No. 2007-1084-MLM-E, Ordering Provisions Nos. 2.b. and 2.c.].

Corrective Actions/Technical Requirements

Technical Requirements:

1. Immediately cease disposing of additional MSW at the Site.
2. Within 30 days remove all MSW from the Site and dispose of it at an authorized facility.
3. Within 45 days submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: June 2, 2014
Date Answer(s) Filed: N/A
Settlement Date: July 29, 2014

Contact Information

TCEQ Attorneys: Jake Marx, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363
TCEQ SEP Attorney: Meaghan Bailey, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: Steven Van Landingham, Enforcement Division, (512) 239-5717
TCEQ Regional Contact: Christopher G. Mayben, P.G., San Angelo Regional Office, (325) 655-9479
Respondent Contact: Kimberly Dechert Powers, 343 N. US Highway 83, Junction, Texas 76849
Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-0361-MSW-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Bill Dechert
Penalty Amount:	Twenty-Three Thousand Dollars (\$23,000)
SEP Offset Amount:	Eleven Thousand Five Hundred Dollars (\$11,500)
Type of SEP:	Contribution to a Pre-Approved Third-Party Administrator
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Cleanup of Unauthorized Dumpsites</i>
Location of SEP:	Kimble County, Colorado River Basin, and Edwards-Trinity Plateau Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Cleanup of Unauthorized Dumpsites*. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ. Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to clean up sites where trash, tires, or other materials have been illegally disposed of (the “Project”). The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste.

All dollars contributed will be used solely for the direct cost of the Project. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director, be applied to another pre-approved SEP.

Respondent’s signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

This SEP shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D
Attention: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Litigation SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Bill Dechert
Docket No. 2014-0361-MSW-E
Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	10-Jan-2014		
	PCW	26-Mar-2014	Screening	14-Jan-2014
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Bill Dechert
Reg. Ent. Ref. No.	RN105229645
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	34149	Order Type	Findings
Docket No.	2014-0361-MSW-E	Government/Non-Profit	No
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Steven Van Landingham
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$23,000
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

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	\$2,286
Approx. Cost of Compliance	\$6,265

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$23,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$23,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$23,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$23,000
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Screening Date 14-Jan-2014

Docket No. 2014-0361-MSW-E

PCW

Respondent Bill Dechert

Policy Revision 2 (September 2002)

Case ID No. 34149

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105229645

Media [Statute] Municipal Solid Waste

Enf. Coordinator Steven Van Landingham

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)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date	14-Jan-2014	Docket No.	2014-0361-MSW-E	PCW		
Respondent	Bill Dechert				Policy Revision 2 (September 2002)	
Case ID No.	34149				PCW Revision October 30, 2008	
Reg. Ent. Reference No.	RN105229645					
Media [Statute]	Municipal Solid Waste					
Enf. Coordinator	Steven Van Landingham					
Violation Number	1					
Rule Cite(s)	TCEQ Agreed Order Docket No. 2007-1084-MLM-E, Ordering Provisions Nos. 2.b. and 2.c., and 30 Tex. Admin. Code § 330.15(c)					
Violation Description	Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, the Respondent failed to prevent the disposal of approximately 700 cubic yards of MSW including construction and demolition debris, insulation, tires, concrete, and other waste at the Site.					
				Base Penalty	\$10,000	
>> Environmental, Property and Human Health Matrix						
OR	Harm					
	Release	Major	Moderate	Minor		
	Actual			X		
	Potential				Percent	10%
>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor		
					Percent	0%
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.					
				Adjustment	\$9,000	
					\$1,000	
Violation Events						
	Number of Violation Events	23	2101	Number of violation days		
	mark only one with an x	daily				
		weekly				
		monthly				
		quarterly	X			
		semiannual				
		annual				
		single event				
				Violation Base Penalty	\$23,000	
	Twenty-three quarterly events are recommended from the April 14, 2008 order effective date to the January 14, 2014 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	\$23,000	
Economic Benefit (EB) for this violation						
Statutory Limit Test						
	Estimated EB Amount	\$2,286	Violation Final Penalty Total	\$23,000		
			This violation Final Assessed Penalty (adjusted for limits)	\$23,000		

Economic Benefit Worksheet

Respondent Bill Dechert
Case ID No. 34149
Reg. Ent. Reference No. RN105229645
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
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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	\$6,265	24-Apr-2007	9-Aug-2014	7.30	\$2,286	n/a	\$2,286
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 the MSW and dispose of it at a facility authorized to accept the waste. The date required is the initial 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 \$6,265

TOTAL \$2,286

The TCEQ is committed to accessibility.

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 CN603192477, RN105229645, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN603192477, Bill Dechert

Classification: UNCLASSIFIED **Rating:** -----

Regulated Entity: RN105229645, Bill Dechert Property

Classification: UNCLASSIFIED **Rating:** -----

Complexity Points: 0

Repeat Violator: NO

CH Group: 09 - Construction

Location: 343 N US HIGHWAY 83 JUNCTION, TX 76849-6700, KIMBLE COUNTY

TCEQ Region: REGION 08 - SAN ANGELO

ID Number(s):

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: July 07, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 01, 2008 to August 31, 2013

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

Name: Steven Van Landingham

Phone: (512) 239-5717

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.):

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.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BILL DECHERT;
RN105229645**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2014-0361-MSW-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Bill Dechert ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

Respondent understands that he has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, the right to an evidentiary hearing, notice of an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

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

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

FINDINGS OF FACT

1. Respondent owns and operates an unauthorized municipal solid waste disposal site located at 343 N. US Highway 83 in Junction, Kimble County, Texas (the "Site"). The Site involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on October 16 and 17, 2013, a TCEQ San Angelo Regional Office investigator documented that Respondent failed to prevent the unauthorized disposal of MSW. Specifically, Respondent failed to prevent the disposal of approximately 700 cubic yards of MSW including construction and demolition debris, insulation, tires, concrete, and other waste at the Site.
3. Respondent received notice of the violation on or about June 17, 2014.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c) and TCEQ Agreed Order Docket No. 2007-1084-MLM-E, Ordering Provisions Nos. 2.b. and 2.c.

3. Pursuant to TEX. WATER CODE § 7.051, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of twenty-three thousand dollars (\$23,000.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid eleven thousand five hundred dollars (\$11,500.00) of the administrative penalty. Pursuant to TEX. WATER CODE § 7.067, eleven thousand five hundred dollars (\$11,500.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the SEP Agreement and any payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall implement and complete a SEP as set forth in Conclusion of Law No. 4, above. The amount of eleven thousand five hundred dollars (\$11,500.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.

3. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Respondent shall cease disposing of additional MSW at the Site, in accordance with 30 TEX. ADMIN. CODE ch. 330.15.
 - b. Within 30 days after the effective date of this Agreed Order, Respondent shall remove all MSW from the Site and dispose of it at an authorized facility.
 - c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. and 3.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Christopher G. Mayben, P.G., Waste Section Manager
San Angelo Regional Office
Texas Commission on Environmental Quality
622 S. Oakes, Suite K
San Angelo, Texas 76903-7035

4. All relief not expressly granted in this Agreed Order is denied.
5. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute.
9. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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.
12. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

M. Sweeney
For the Executive Director

September 22, 2014
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 Bill Dechert, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Kimberly Dechert Powers
Signature – Kimberly Dechert Powers
Authorized agent for Bill Dechert via
Statutory Durable Power of Attorney

7/29/14
Date

Attachment A
Docket Number: 2014-0361-MSW-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Bill Dechert
Penalty Amount:	Twenty-Three Thousand Dollars (\$23,000)
SEP Offset Amount:	Eleven Thousand Five Hundred Dollars (\$11,500)
Type of SEP:	Contribution to a Pre-Approved Third-Party Administrator
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Cleanup of Unauthorized Dumpsites</i>
Location of SEP:	Kimble County, Colorado River Basin, and Edwards-Trinity Plateau Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Cleanup of Unauthorized Dumpsites*. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ. Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to clean up sites where trash, tires, or other materials have been illegally disposed of (the “Project”). The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste.

All dollars contributed will be used solely for the direct cost of the Project. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director, be applied to another pre-approved SEP.

Respondent’s signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

This SEP shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D
Attention: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Litigation SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Bill Dechert
Docket No. 2014-0361-MSW-E
Attachment A

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.