

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1782-MLM-E TCEQ ID: RN105193940 CASE NO.: 34896
RESPONDENT NAME: CINDY HENDERSON & MELVIN HENDERSON

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 10491 Wingfield Drive, Lumberton, Hardin County</p> <p>TYPE OF OPERATION: Unauthorized disposal site</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 10, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Dana Shuler, Waste Enforcement Section, MC 128, (512) 239-2505 TCEQ Regional Contact: Mr. Derek L. Eades, Beaumont Regional Office, MC R-10, (409) 899-8705 Respondents: Ms. Cindy Henderson and Mr. Melvin Henderson, 10491 Wingfield Drive, Lumberton, Texas 77657 Respondent's Attorney: Not represented by counsel.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: March 23, 2007 – April 6, 2007</p> <p>Date of NOE Relating to this Case: September 7, 2007</p> <p>Background Facts: An EDPRP was filed on November 26, 2007. The Respondents received notice of the EDPRP on December 10, 2007. The Respondents have not filed a response or requested a hearing.</p> <p>The Respondents in this case do not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MLM:</p> <p>1. Failed to comply with the general prohibition on outdoor burning [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2. Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c)].</p>	<p>Total Assessed: \$6,700</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$6,700</p> <p>This is a Default Order. The Respondents have not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondents shall undertake the following technical requirements.</p> <p>1. Immediately:</p> <p>a. Cease the receipt and storage of additional waste material at the Site; and</p> <p>b. Cease all unauthorized burning of wastes.</p> <p>2. Within 30 days, remove all waste materials on-site and dispose of the wastes at a permitted municipal solid waste disposal facility.</p> <p>3. Within 45 days, submit written certification demonstrating compliance with Ordering Provision Nos. 1 and 2.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

DATES	Assigned	10-Sep-2007			
	PCW	1-Nov-2007	Screening	29-Oct-2007	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	Cindy Henderson and Melvin Henderson		
Reg. Ent. Ref. No.	RN105193940		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34896	No. of Violations	2
Docket No.	2007-1782-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Marlin Bullard
Multi-Media	Air	EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum	\$0	Maximum \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$4,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement *Subtotals 2, 3, & 7* **\$0**

Notes: The Respondents have no prior orders or NOVs at this site within the past five years.

Culpability No 0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* **\$0**

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

Notes: The Respondents do not meet the good faith criteria.

0% Enhancement *Subtotal 6* **\$0**

Total EB Amounts	\$3,221	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	\$7,020	

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$4,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE 68% *Adjustment* **\$2,700**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended adjustment to capture the avoided cost associated with violation No. 1.

Final Penalty Amount **\$6,700**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$6,700**

DEFERRAL 0% Reduction *Adjustment* **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered.

PAYABLE PENALTY **\$6,700**

Screening Date 29-Oct-2007

Docket No. 2007-1782-MLM-E

PCW

Respondent: Cindy Henderson and Melvin Henderson

Policy Revision 2 (September 2002)

Case ID No. 34896

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN105193940

Media [Statute] Municipal Solid Waste

Enf. Coordinator: Marlin Bullard

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondents have no prior orders or NOVs at this site within the past five years.

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

Screening Date 29-Oct-2007

Docket No. 2007-1782-MLM-E

PCW

Respondent Cindy Henderson and Melvin Henderson

Policy Revision 2 (September 2002)

Case ID No. 34896

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN105193940

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health and Safety Code § 382.085(b)

Violation Description Failed to comply with the general prohibition on outdoor burning, as documented during an investigation conducted on March 23, 2007. Specifically, the Respondents failed to prevent approximately 100 cubic yards of municipal solid waste including brush and wood from igniting and burning at the site.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended.

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: Cindy Henderson and Melvin Henderson
 Case ID No: 34896
 Reg. Ent. Reference No: RN105193940
 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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$2,700	23-Mar-2007	23-Mar-2008	1.9	\$259	\$2,700	\$2,959

Notes for AVOIDED costs

Estimated cost to dispose of approximately 100 cubic yards of waste at a permitted municipal solid waste landfill at \$27 per cubic yard. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Approx. Cost of Compliance

\$2,700

TOTAL

\$2,959

Screening Date 29-Oct-2007

Docket No. 2007-1782-MLM-E

PCW

Respondent Cindy Henderson and Melvin Henderson

Policy Revision 2 (September 2002)

Case ID No. 34896

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN105193940

Media [Statute] Municipal Solid Waste

Enf. Coordinator Marlin Bullard

Violation Number

Rule Cite(s)

Violation Description Failed to prevent the unauthorized disposal of municipal solid waste, as documented during an investigation on March 23, 2007. Specifically, the Respondents failed to prevent the disposal of approximately 160 cubic yards of municipal solid waste including brush, metal, plastic, tires, wire, and wood.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="X"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

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.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="X"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Three quarterly reports from the March 23, 2007 investigation date to the October 29, 2007 screening date.

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: Cindy Henderson and Melvin Henderson
Case ID No.: 34896
Reg. Ent. Reference No.: RN105193940
Media: Municipal Solid Waste
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$4,320	23-Mar-2007	8-Jun-2008	1.2	\$262	n/a	\$262
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of approximately 160 cubic yards of waste at a permitted municipal solid waste landfill at \$27 per cubic yard. The Date Required is the date of the investigation 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,320

TOTAL

\$262

Compliance History

Customer/Respondent/Owner-Operator: CN603261736 HENDERSON, CINDY Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105193940 HENDERSON PROPERTY Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): MUNICIPAL SOLID WASTE NON ID NUMBER 455100052
Location: 10491 WINGFIELD DR, LUMBERTON, TX, 77657 Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: May 07, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 31, 2002 to October 31, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: John Shelton Phone: (512) 239-2563

Site Compliance History Components

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 09/07/2007 (555869)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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

Compliance History

Customer/Respondent/Owner-Operator:	CN603170382 HENDERSON, MELVIN	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105193940 HENDERSON PROPERTY	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER	455100052
Location:	10194 WINGFIELD DR, LUMBERTON, TX, 77657	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	October 31, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 31, 2002 to October 31, 2007		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Marlin Bullard Phone: (254) 761-3038

Site Compliance History Components

- | | |
|--|------------|
| 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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 09/07/2007 (555869)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
CINDY HENDERSON & MELVIN
HENDERSON,
RN105193940

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-1782-MLM-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondents made the subject of this Order are Cindy Henderson and Melvin Henderson ("Mr. and Mrs. Henderson").

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

FINDINGS OF FACT

1. Mr. and Mrs. Henderson own property that includes an unauthorized disposal site located at 10491 Wingfield Drive, Lumberton, Hardin County, Texas (the "Site").
2. The Site involves the management of municipal solid 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.
3. During an inspection March 23, 2007 through April 6, 2007, a TCEQ Beaumont Regional Office investigator documented that Mr. and Mrs. Henderson:
 - a. Failed to comply with the general prohibition on outdoor burning. Specifically, the Respondents failed to prevent approximately 100 cubic yards of municipal solid waste including brush and wood from igniting and burning at the site; and

- b. Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, the Respondents failed to prevent the disposal of approximately 160 cubic yards of municipal solid waste including brush, metal, plastic, tires, wire, and wood.
- 4 Mr. and Mrs. Henderson received notice of the violations on or about September 12, 2007.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Cindy Henderson and Melvin Henderson" (the "EDPRP") in the TCEQ Chief Clerk's office on November 26, 2007.
6. By letter dated November 26, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. and Mrs. Henderson with notice of the EDPRP. According to the return receipt "green cards" Mr. and Mrs. Henderson received notice of the EDPRP on December 10, 2007, as evidenced by the signatures on the cards.
7. More than 20 days have elapsed since Mr. and Mrs. Henderson received notice of the EDPRP, provided by the Executive Director. Mr. and Mrs. Henderson failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. and Mrs. Henderson are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. and Mrs. Henderson Failed to comply with the general prohibition on outdoor burning, in violation of 30 TEX. ADMIN. CODE § 111.201; and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 3.b., Mr. and Mrs. Henderson failed to prevent the unauthorized disposal of municipal waste, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. and Mrs. Henderson with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

5. As evidenced by Finding of Fact No. 7, Mr. and Mrs. Henderson have failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. and Mrs. Henderson and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. and Mrs. Henderson for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of six thousand seven hundred dollars (\$6,700.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. and Mrs. Henderson are assessed an administrative penalty in the amount of six thousand seven hundred dollars (\$6,700.00) for violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and rules of the TCEQ. The payment of this administrative penalty and Mr. and Mrs. Henderson'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 which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Cindy and Melvin Henderson; Docket No. 2007-1782-MLM-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. Mr. and Mrs. Henderson shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order
 - i. Cease the receipt and storage of additional waste material at the Site;
 - ii. Cease all unauthorized burning of wastes;
 - b. Within 30 days after the effective date of this Order, remove all waste materials on-site and dispose of the wastes at a permitted municipal solid waste disposal facility; and
 - c. Within 45 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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 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 a copy to:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. and Mrs. Henderson. Mr. and Mrs. Henderson are ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Mr. and Mrs. Henderson fail to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. and Mrs. Henderson's failure to comply is not a violation of this Order. Mr. and Mrs. Henderson shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. and Mrs. Henderson shall notify the Executive Director within seven days after Mr. and Mrs. Henderson become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. and Mrs. Henderson shall be made in writing to the Executive Director. Extensions are not effective until Mr. and Mrs. Henderson receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Mr. and Mrs. Henderson if the Executive Director determines that Mr. and Mrs. Henderson have not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Cindy Henderson and Melvin Henderson
DOCKET NO. 2007-1782-MLM-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BENJAMIN O. THOMPSON

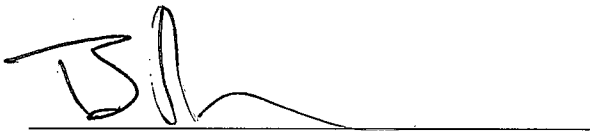
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Benjamin O. Thompson. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Cindy Henderson and Melvin Henderson” (the “EDPRP”) with the Office of the Chief Clerk on November 26, 2007.

I sent the EDPRP to Mr. and Mrs. Henderson at their last known address on November 26, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green cards,” Mr. and Mrs. Henderson received notice of the EDPRP on December 10, 2007, as evidenced by the signatures on the cards.

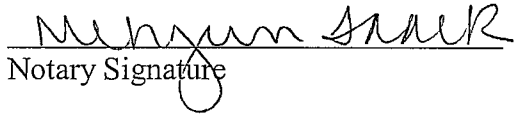
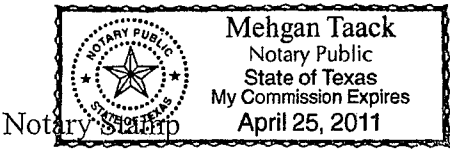
More than 20 days have elapsed since Mr. and Mrs. Henderson received notice of the EDPRP. Mr. and Mrs. Henderson failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Benjamin O. Thompson
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Benjamin O. Thompson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 15th day of JANUARY, A.D., 2008.



Notary Signature