

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 3

DOCKET NUMBER: 2001-0725-MSW-E TCEQ ID NOS: RN103043956 AND RN104002720 ENF ID: 15456 AND 15922
RESPONDENT NAME: SOUTHWEST TIRE DISPOSAL, L.L.C.

ORDER TYPE:

<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: 7282 Doniphan, Canutillo, El Paso County and 1420 North Avenue Y, Lubbock, Lubbock County

TYPE OF OPERATION: Used and scrap tire facilities

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no previous complaints. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on October 23, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Shannon Strong, Litigation Division, MC 175, (512) 239-0972; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223

TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Section III, MC 149, (512) 239-2134

TCEQ Regional Contact: Mr. Terry McMillan, El Paso Regional Office, MC R-6, (915) 834-4953; Mr. Randy Ammons, Lubbock Regional Office, MC R-2, (806) 796-7092

Respondent: Mr. Robert S. Hough, President, Southwest Tire and Disposal, L.L.C., 808 Camino De Paz, El Paso, Texas 79922

Respondent's Attorney: Not represented by counsel.

**RESPONDENT'S NAME: SOUTHWEST TIRE DISPOSAL, L.L.C.
DOCKET NO.: 2001-0725-MSW-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: September 1, 2000, December 21, 2000, and October 23, 2001</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: November 22, 2000, February 10, 2001, and March 5, 2001 (NOVs)</p> <p>Background Facts: Two matters were referred to the Litigation Division separately by the Lubbock and El Paso regional offices. One EDPRP was filed covering both referrals on May 9, 2003. The Respondent filed an answer on May 21, 2003. The case was referred to SOAH on October 27, 2003. The Preliminary hearing was March 18, 2004. The evidentiary hearing was set on March 16, 2005. The parties reached agreement on March 15, 2005. Negotiations continued regarding the SEP.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MSW:</p> <ol style="list-style-type: none"> Failed to properly manifest scrap tires [30 TEX. ADMIN. CODE § 328.58(b)]. Failed to obtain a Scrap Tire Storage Site Registration prior to storing more than five hundred used or scrap tires on the ground or two thousand used or scrap tires in containers [30 TEX. ADMIN. CODE §§ 328.59(a) and 328.60(a)]. Failed to transport used and scrap tires to an authorized site [30 TEX. ADMIN. CODE § 328.57(c)(3)]. Failed to mark scrap tire transportation vehicles with the required transporter identification information [30 TEX. ADMIN. CODE § 328.54(d)]. Failed to transport scrap or used tires to an authorized facility [30 TEX. ADMIN. CODE § 328.57(c)(3)]. Failed to register as a transporter prior to transporting scrap and used tires [30 TEX. ADMIN. CODE § 328.57(c)(1)]. 	<p>Initial Calculated Penalty: \$12,800*</p> <p>Total Assessed: \$12,140</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$6,070</p> <p>Total Paid/Due to General Revenue: \$570/ \$5,500</p> <p>The Respondent has paid \$570 of the administrative penalty. The remaining amount of \$5,500 shall be payable in 11 monthly installments of \$500 each. The remaining amount of \$6,070 shall be offset by completion of a Supplemental Environmental Project (SEP).</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: January 1, 1999</p> <p>Findings Order Justification: A findings order is justified because the Respondent has demonstrated a pattern of disregard for environmental laws. See Findings Criteria September 1, 1996.</p> <p>*Explanation for Reduction in Penalty: The penalty was reduced based on risk of litigation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent:</p> <ol style="list-style-type: none"> Is currently registered as a tire transporter with TCEQ Registration No. 6200001; Has submitted an administratively complete Scrap Tire Transportation Facility registration application for the Canutillo Facility to the Commission on November 16, 2004; and The Lubbock Facility is no longer in business and all of the tires have been removed from the site. <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, ensure that all tire transportation vehicles are marked with the transporter's name, place of business, and Commission registration number Within 45 days, submit written certification of compliance. Ensure that all used and scrap tires it transports are delivered to an authorized site; Ensure that all used and scrap tires it transports are properly manifested; Implement and complete a Supplemental Environmental Project (SEP) (see SEP Attachment A).

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>7. Failed to properly complete the transporter portion of the manifest [30 TEX. ADMIN. CODE § 328.58(b)].</p> <p>8. Failed to obtain registration prior to storing the tire pieces in excess of the weight equivalent of 500 scrap tires on the ground, on privately owned property [30 TEX. ADMIN. CODE §§ 328.59(a) and 328.60(a)].</p>		

TNRCC

Penalty Calculation Worksheet



Plcy. rev. 1 (01/99)

PCW rev. 12/01/2000

Case Information

Screening Date	5-Oct-2000	Case Priority Due Date	2-Feb-2001
PCW Date	26-Feb-2007	EPA SNC/SV Due Date	
Respondent	Southwest Tire Disposal, LLC		
ID Number(s)	Tire Transporter Reg. No.: 6200001; MSW Unauthorized Site No.: 455020022; ENF Id. No.: 15456		
Docket Number	2001-0725-MSW-E	Facility/Site Region	Lubbock R-2
Enf. Coordinator	Suzanne Walrath	EC's Unit or Region	Lubbock R-2
Type of Order	Findings	No. of Violations in PCW	4
Case Priority	3	Enter x for Major Source (as defined in PP)	

Media-Program

x	Program Name(s)	Min	Max
x	Waste Tires	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1

Total Base Penalty forward (subtotal 1) **\$3,300**

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes: No previous NOVs or orders in the previous five (5) years for this site.

Adjustment amount (subtotal 2) **\$0**

Economic Benefit (enhancement)

Total of EB Amounts **\$1,673**
 EB Enhancement (percent) **0%**
 Adjustment amount (subtotal 5) **\$0**
 Approx. Cost of Compliance **\$25,500**

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDPRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	0%
None of the above	<input checked="" type="checkbox"/>	(mark only one; use small x)	

Notes: The facility is not yet in compliance.

Adjustment amount (subtotal 3) **\$0**

Compliance History (enhancement)

Enter Percent (enter number only; e.g., 30 for 30%)

Notes: No district court orders, findings orders, federal court orders, or criminal convictions over the previous five (5) years.

Adjustment amount (subtotal 4) **\$0**

Final Subtotal \$3,300

Other Factors as justice may require

Enter Adjustment Percentage (+/-) (enter number only; e.g., -30 for -30%)

Amount **\$0**

Notes:

(if more space is needed, increase row height)

Final Penalty Amount \$3,300

Final Assessed Penalty (including any statutory limit adj.) \$3,300

Payable Penalty

Enter Deferral Percentage (enter number only; e.g., 20 for 20%)

Deferral **\$0**

Notes: A deferral is not recommended as this case was transferred to the Litigation Division.

Payable Penalty \$3,300

Screening Date 05-Oct-00 Docket Number 2001-0725-MSW-E

PCW

Respondent Southwest Tire Disposal, LLC

Plcy. rev. 1 (01/99)

ID Number(s) Tire Transporter Reg. No.: 6200001; MSW Unauthorized Site No.: 455020022; ENF Id. No.: 15456

rev. 12/01/2000

Media [Statute] Waste Tires

Enf. Coordinator Suzanne Walrath

Violation Number 1

Primary Rule Cite 30 Tex. Admin. Code § 328.58(b)

Secondary Cite(s)

Violation Description Failure to properly manifest scrap tires by not including the transporter registration number and the required transporter's driver's license information on the manifest.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor	Percent
Actual				
Potential				

» Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes The facility was in compliance with most, but not all (at least 70%) of the rule requirement.

Adjustment -\$9,900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

Events Notes

One (1) single event is recommended based on the September 1, 2000 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$315

Violation Final Penalty total \$100

This Violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent Southwest Tire Disposal, LLC
ID Number(s) Tire Transporter Reg. No.: 6200001; MSW Unauthorized Site No.: 455020022; ENF Id. No.: 15456
Media [Statute] Waste Tires
Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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/equip				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)	\$300	1-Sep-2000	17-Jul-2001	1.0	\$15	\$300	\$315

Notes for AVOIDED costs

Estimated annual cost to properly completing scrap tire manifests.

Approx Cost of Compliance

TOTAL

Screening Date	05-Oct-00	Docket Number	2001-0725-MSW-E	PCW
Respondent	Southwest Tire Disposal, LLC			Plcy. rev. 1 (01/99)
ID Number(s)	Tire Transporter Reg. No.: 6200001; MSW Unauthorized Site No.: 455020022; ENF Id. No.: 15456			rev. 12/01/2000
Media [Statute]	Waste Tires			
Enf. Coordinator	Suzanne Walrath			
Violation Number	2			
Primary Rule Cite	30 Tex. Admin. Code § 328.57(c)(3)			
Secondary Cite(s)				
Violation Description	Failure to transport used and scrap tires to an authorized site.			
		Base Penalty		\$10,000
» Environmental, Property and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
OR	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent	10%
» Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent	<input type="text"/>
Matrix Notes	By failing to deliver scrap tires to an authorized facility 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
		Base Penalty Subtotal		\$1,000
Violation Events				
	Number of Violation Events	1		
<i>mark only one; use small x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
		Violation Base Penalty		\$1,000
Events Notes	One (1) quarterly event is recommended from the September 1, 2000 investigation to the October 5, 2000 enforcement screening committee.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB.Amount (\$)	\$519		
		Violation Final Penalty total		\$1,000
	This Violation Final Assessed Penalty (adjusted for limits)			\$1,000

Economic Benefit Worksheet

Respondent Southwest Tire Disposal, LLC

ID Number(s) Tire Transporter Reg. No.: 6200001; MSW Unauthorized Site No.: 455020022; ENF Id. No.: 15456

Media [Statute] Waste Tires

Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	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				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$10,000	1-Sep-2000	15-Sep-2001	1.0	\$519	n/a	\$519

Notes for DELAYED costs

Estimated costs to transport the scrap tires to an authorized storage facility.

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/equip				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 \$10,000

TOTAL \$519

Screening Date	05-Oct-00	Docket Number	2001-0725-MSW-E	PCW	
Respondent	Southwest Tire Disposal, LLC			Plcy: rev. 1 (01/99)	
ID Number(s)	Tire Transporter Reg. No.: 6200001; MSW Unauthorized Site No.: 455020022; ENF Id. No.: 15456			rev. 12/01/2000	
Media [Statute]	Waste Tires				
Enf. Coordinator	Suzanne Walrath				
Violation Number	3				
Primary Rule Cite	30 Tex. Admin. Code 328.60(a)				
Secondary Cite(s)	30 Tex. Admin. Code 328.59(a)				
Violation Description	Failed to obtain a scrap tire storage site registration prior to storing more than five hundred (500) used or scrap tires on the ground or two thousand (2000) used or scrap tires in containers.				
		Base Penalty		\$10,000	
» Environmental, Property and Human Health Matrix					
	Harm				
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
		Percent			<input type="text"/>
» Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Percent			<input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.				
		Adjustment		<input type="text" value="-\$9,000"/>	
		Base Penalty Subtotal		\$1,000	
Violation Events					
	Number of Violation Events <input type="text" value="2"/>				
<i>mark only one; use small x</i>	daily	<input type="text"/>			
	monthly	<input checked="" type="checkbox"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
		Violation Base Penalty		\$2,000	
Events Notes	Two (2) monthly events are recommended from the September 1, 2000 investigation to the October 5, 2000 enforcement screening committee, and to make the penalty commensurate to the situation.				
Economic Benefit (EB) for this violation		Statutory Limit Test			
	Estimated EB Amount (\$)	<input type="text" value="\$830"/>	Violation Final Penalty total	<input type="text" value="\$2,000"/>	
	This Violation Final Assessed Penalty (adjusted for limits)			\$2,000	

Economic Benefit Worksheet

Respondent Southwest Tire Disposal, LLC

ID Number(s) Tire Transporter Reg. No.: 6200001; MSW Unauthorized Site No.: 455020022; ENF Id. No.: 15456

Media [Statute] Waste Tires

Violation Number 3

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	\$10,000	1-Sep-2000	17-Jul-2001	0.9	\$29	\$583	\$612
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)	\$5,000	1-Sep-2000	17-Jul-2001	0.9	\$218	n/a	\$218

Notes for DELAYED costs

Estimated cost to submit a registration application and construct the storage site to technical standards.

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/equip				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 \$15,000

TOTAL \$830

Screening Date 05-Oct-00 Docket Number 2001-0725-MSW-E

PCW

Respondent Southwest Tire Disposal, LLC

Plcy. rev. 1 (01/99)

ID Number(s) Tire Transporter Reg. No.: 6200001; MSW Unauthorized Site No.: 455020022; ENF Id. No.: 15456

rev. 12/01/2000

Media [Statute] Waste Tires

Enf. Coordinator Suzanne Walrath

Violation Number 4

Primary Rule Cite 30 Tex. Admin. Code § 328.54(d)

Secondary Cite(s)

Violation Description Failure to mark scrap tire transportation vehicles with the transporter's name, place of business, and commission registration.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

The facility was in compliance with most, but not all (at least 70%) of the rule requirement.

Adjustment -\$9,900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 2

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$200

Events Notes

Two (2) single events are recommended for two (2) improperly marked vehicles observed during the September 1, 2000 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$9

Violation Final Penalty total \$200

This Violation Final Assessed Penalty (adjusted for limits) \$200

Economic Benefit Worksheet

Respondent Southwest Tire Disposal, LLC
ID Number(s) Tire Transporter Reg. No.: 6200001; MSW Unauthorized Site No.: 455020022; ENF Id. No.: 15456
Media [Statute] Waste Tires
Violation Number 4

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
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)	\$200	1-Sep-2000	17-Jul-2001	0.9	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to properly mark the vehicles used to transport scrap tires.

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/equip				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

TOTAL



TNRCC

Penalty Calculation Worksheet

Plcy. rev. 1 (01/99) PCW rev. 03/28/2001

Go to Viol 1

Case Information

Screening Date	5-Feb-2001	Case Priority Due Date	5-Jun-2001
PCW Date	25-Jun-2001	EPA SNC/SV Due Date	
Respondent	Southwest Tire Disposal, LLC		
ID Number(s)	Tire Transporter No. 6200001; Enf. ID No. 15922		
Docket Number	2001-0725-MSW-E	Facility/Site Region	6
Enf. Coordinator	Suzanne Walrath	EC's Unit or Region	12
Type of Order	Findings	No. of Violations in PCW	4
Case Priority	3	Enter x for Major Source (as defined in PP)	

Media Program		Admin. Penalty Dollar Limit	
x	Program Name(s)	Min	Max
x	Municipal Solid Waste	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1 Total Base Penalty forward (subtotal 1) \$9,500

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes: No same or similar violations have been noted at this facility in the past five years.

Adjustment amount (subtotal 2) \$0

Economic Benefit (enhancement)

Total of EB Amounts \$520

EB Enhancement (percent) 0%

Adjustment amount (subtotal 5) \$0

Approx. Cost of Compliance \$15,220

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	0%
None of the above	<input checked="" type="checkbox"/>	(mark only one; use small x)	

Notes: The Respondent is not yet in compliance.

Adjustment amount (subtotal 3) \$0

Compliance History (enhancement)

Enter Percent 0% (enter number only; e.g., 30 for 30%)

Notes: There is no record of previous findings orders, judicial actions, or criminal convictions.

Adjustment amount (subtotal 4) \$0

Final Subtotal \$9,500

Other Factors as justice may require

Enter Adjustment Percentage (+/-) 0% (enter number only; e.g., -30 for -30%)

Amount \$0

Notes: (if more space is needed, increase row height)

Final Penalty Amount \$9,500

Final Assessed Penalty (including any statutory limit adj.) \$9,500

Payable Penalty

Enter Deferral Percentage 0% (enter number only; e.g., 20 for 20%)

Deferral \$0

Notes: No deferral is recommended since this is a Findings Order.

Payable Penalty \$9,500

Screening Date	05-Feb-01	Docket Number	2001-0725-MSW-E	PCW
Respondent	Southwest Tire Disposal, LLC			Plcy. rev. 1 (01/99)
ID Number(s)	Tire Transporter No. 6200001; Enf. ID No. 15922			PCW rev. 03/28/2001
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Suzanne Walrath			
Violation Number	1			
Primary Rule Cite	30 Tex. Admin. Code § 328.57(c)(3)			
Secondary Cite(s)				
Violation Description	Failure to transport scrap tires or used tires to an authorized facility.			

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

Matrix Notes
Failure to transport scrap or used tires to an authorized facility resulted in the exposure of an insignificant amount of contaminants which did not exceed levels that are protective to human health and the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

Events Notes
One quarterly event is recommended from the investigation date of December 21, 2000 to the screening date of February 5, 2001.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$66	Violation Final Penalty total \$1,000
This Violation Final Assessed Penalty (adjusted for limits) \$1,000	

Economic Benefit Worksheet

Respondent Southwest Tire Disposal, LLC
ID Number(s) Tire Transporter No. 6200001; Enf. ID No. 15922
Media [Statute] Municipal Solid Waste
Violation Number 1

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	\$10,000	21-Dec-2001	7-Feb-2002	0.1	\$66	n/a	\$66
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to transport the scrap and used tires to an authorized storage facility. Date required based on the investigation date. Final date based on projected compliance date.

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/equip				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 \$10,000

TOTAL \$66

Screening Date	05-Feb-01	Docket Number	2001-0725-MSW-E	PCW
Respondent	Southwest Tire Disposal, LLC			Plcy. rev. 1 (01/99)
ID Number(s)	Tire Transporter No. 6200001; Enf. ID No. 15922			PCW rev. 03/28/2001
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Suzanne Walrath			
Violation Number	2			
Primary Rule Cite	30 Tex. Admin. Code § 328.57(c)(1)			
Secondary Cite(s)				
Violation Description	Failure to register as a transporter prior to transporting scrap and used tires.			

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				
	Potential				
				Percent	

» **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		X			Percent 10%

Matrix Notes
Failure to register as a transporter prior to operation means that 100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

<i>mark only one; use small x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

Events Notes
One single event is recommended based on the investigation date of December 21, 2000.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$2 **Violation Final Penalty total** \$1,000

This Violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Southwest Tire Disposal, LLC
ID Number(s) Tire Transporter No. 6200001; Enf. ID No. 15922
Media [Statute] Municipal Solid Waste
Violation Number 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				0.0	\$0	n/a	\$0
Permit Costs	\$100	4-Jan-2000	30-Jun-2000	0.5	\$2	n/a	\$2
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated expense to complete and submit tire transporter registration. Date required based on the earliest manifest which documents transportation of scrap and used tires. Final date based on the registration/compliance date.

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/equip				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 \$100

TOTAL \$2

Screening Date	05-Feb-01	Docket Number	2001-0725-MSW-E	PCW
Respondent	Southwest Tire Disposal, LLC			Plcy. rev. 1 (01/99)
ID Number(s)	Tire Transporter No. 6200001; Enf. ID No. 15922			PCW rev. 03/28/2001
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Suzanne Walrath			
Violation Number	3			
Primary Rule Cite	30 Tex. Admin. Code § 328.58(b)			
Secondary Cite(s)				
Violation Description	Failure to properly complete the transporter portion of the manifest.			

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix				
Harm				
	Release	Major	Moderate	Minor
<i>OR</i>	Actual			
	Potential			
				Percent
» Programmatic Matrix				
	Falsification	Major	Moderate	Minor
			x	
				Percent
				5%
Matrix Notes	Failure to properly complete the transporter portion of the manifest means that approximately 50% (3 out of 6 items) of the rule requirement was not met. Specifically, the transporter's driver's license number and state of issuance, the number and type of scrap tires removed from generator and delivered, and the location of any whole used or scrap tires removed from the load and delivered were not included on the manifests.			
	Adjustment	-\$9,500		
	Base Penalty Subtotal	\$500		

Violation Events														
Number of Violation Events	11													
<i>mark only one; use small x</i>	<table border="1"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td>x</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty
daily														
monthly														
quarterly														
semiannual														
annual														
single event	x													
		\$5,500												

Events Notes	Eleven single events are recommended based on the number of incomplete manifests submitted to the TNRCC.
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Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$)	\$23
Violation Final Penalty total	\$5,500
This Violation Final Assessed Penalty (adjusted for limits)	\$5,500

Economic Benefit Worksheet

Respondent Southwest Tire Disposal, LLC
ID Number(s) Tire Transporter No. 6200001; Enf. ID No. 15922
Media [Statute] Municipal Solid Waste
Violation Number 3

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				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/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$20	4-Jan-2000	7-Feb-2002	3.0	\$3	\$20	\$23
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated annual expense to properly complete scrap and used tire manifests. Date required based on the earliest known date of transport without a manifest. Final date based on the projected compliance date.

Approx Cost of Compliance

TOTAL

Screening Date	05-Feb-01	Docket Number	2001-0725-MSW-E	PCW
Respondent	Southwest Tire Disposal, LLC			Plcy. rev. 1 (01/99)
ID Number(s)	Tire Transporter No. 6200001; Enf. ID No. 15922			PCW rev. 03/28/2001
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Suzanne Walrath			
Violation Number	4			
Primary Rule Cite	30 Tex. Admin. Code §§ 328.59(a) and 328.60(a)			
Secondary Cite(s)				
Violation Description	Failure to obtain registration prior to storing tire pieces in excess of the weight equivalent of 500 scrap tires on the ground, on privately owned property.			

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

» **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
			x			Percent 10%

Matrix Notes
Failure to obtain registration prior to storing tire pieces in excess of the weight equivalent of 500 scrap tires on the ground, on privately owned property means that 100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 2

mark only one; use small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Events Notes
Two monthly events are recommended from the investigation date of December 21, 2000 to the screening date of February 5, 2001 to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$429	Violation Final Penalty total \$2,000
This Violation Final Assessed Penalty (adjusted for limits) \$2,000	

Economic Benefit Worksheet

Respondent: Southwest Tire Disposal, LLC
ID Number(s): Tire Transporter No. 6200001; Enf. ID No. 15922
Media [Statute]: Municipal Solid Waste
Violation Number: 4

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	\$5,000	21-Dec-2000	7-Mar-2002	1.2	\$20	\$403	\$423
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)	\$100	21-Dec-2000	7-Mar-2002	1.2	\$6	n/a	\$6

Notes for DELAYED costs

Estimated expense to complete and submit a registration and construct the storage site to technical standards.
Date required based on the investigation date. Final date based on the projected compliance date.

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/equip				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 \$5,100

TOTAL \$429

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SOUTHWEST TIRE DISPOSAL,
L.L.C.;
RN103043956 AND RN104002720

§
§
§
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§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2001-0725-MSW-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Southwest Tire Disposal, L.L.C. ("Southwest Tire") 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 Southwest Tire presented this agreement to the Commission.

Southwest Tire understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Southwest Tire 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 Southwest Tire.

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

FINDINGS OF FACT

1. Southwest Tire operates a used and scrap tire facility at 7282 Doniphan, Canutillo, El Paso County, Texas (the "Canutillo Facility"). At the time of the violations, Southwest Tire operated a used and scrap tire facility located at 1420 North Avenue Y, Lubbock, Lubbock County, Texas (the "Lubbock Facility").
2. The Canutillo Facility and the Lubbock Facility each involve the management and the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

3. During an inspection on September 1, 2000, a TCEQ Lubbock Regional Office investigator documented that Southwest Tire:
 - a. Failed to properly manifest scrap tires at the Lubbock Facility by not including the transporter registration number and the transporter's driver's license number on the manifests;
 - b. Failed to obtain a Scrap Tire Storage Site Registration prior to storing more than five hundred used or scrap tires on the ground or two thousand used or scrap tires in containers at the Lubbock Facility;
 - c. Failed to transport used and scrap tires to an authorized facility; and
 - d. Failed to mark its scrap tire transportation vehicles with the required transporter identification information.
4. During an inspection between December 21, 2000, a TCEQ El Paso Regional Office investigator documented that Southwest Tire:
 - a. Failed to transport scrap or used tires to an authorized facility;
 - b. Failed to register as a transporter prior to transporting scrap and used tires;
 - c. Failed to properly complete the transporter portion of the manifest; and
 - d. Failed to obtain registration prior to storing the tire pieces in excess of the weight equivalent of 500 scrap tires on the ground, on privately owned property.
5. Southwest Tire received notices of the violations on November 22, 2000; March 5, 2001; and February 10, 2001.
6. The Executive Director recognizes that:
 - a. Southwest Tire is currently registered as a tire transporter with TCEQ Registration No. 6200001;
 - b. Southwest Tire has submitted an administratively complete Scrap Tire Transportation Facility registration application for the Canutillo Facility to the Commission on November 16, 2004; and
 - c. the Lubbock Facility is no longer in business and all of the tires have been removed from the site.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Southwest Tire is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE §§ 7.051, 7.002, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Southwest Tire failed to properly manifest scrap tires at the Lubbock Facility by not including the transporter registration number and the transporter's driver's license number on the manifests, in violation of 30 TEX. ADMIN. CODE § 328.58(b).
3. As evidenced by Finding of Fact No. 3.b., Southwest Tire failed to obtain a Scrap Tire Storage Site Registration prior to storing more than five hundred used or scrap tires on the ground or two thousand used or scrap tires in containers, in violation of 30 TEX. ADMIN. CODE §§ 328.59(a) and 328.60(a).
4. As evidenced by Finding of Fact No. 3c. Southwest Tire failed to transport used and scrap tires to an authorized site in violation of 30 TEX. ADMIN. CODE § 328.57(c)(3).
5. As evidenced by Finding of Fact No. 3.d., Southwest Tire failed to mark its scrap tire transportation vehicles with the required transporter identification information, in violation of 30 TEX. ADMIN. CODE § 328.54(d).
6. As evidenced by Finding of Fact No. 4.a. Southwest Tire failed to transport scrap or used tires to an authorized facility in violation of 30 TEX. ADMIN. CODE § 328.57(c)(3).
7. As evidenced by Finding of Fact No. 4.b., Southwest Tire failed to register as a transporter prior to transporting scrap and used tires, in violation of 30 TEX. ADMIN. CODE § 328.57(c)(1).
8. As evidenced by Finding of Fact No. 4.c, Southwest Tire failed to properly complete the transporter portion of the manifest in violation of 30 TEX. ADMIN. CODE § 328.58(b).
9. As evidenced by Finding of Fact No. 4.d., Southwest Tire failed to obtain registration prior to storing the tire pieces in excess of the weight equivalent of 500 scrap tires on the ground, on privately owned property in violation of 30 TEX. ADMIN. CODE §§ 328.59(a) and 328.60(a).
10. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Southwest Tire 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.
11. An administrative penalty in the amount of twelve thousand one hundred forty dollars (\$12,140.00) 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. Six thousand seventy dollars (\$6,070.00) shall be conditionally offset by Southwest Tire's completion of a Supplemental Environmental Project ("SEP"). Southwest Tire

has paid five hundred seventy dollars (\$570.00) of the administrative penalty. The remaining amount of five thousand five hundred dollars (\$5,500.00) of the administrative penalty shall be payable in eleven monthly payments of five hundred dollars (\$500.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Southwest Tire fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Southwest Tire to meet the payment schedule of this Agreed Order constitutes the failure by Southwest Tire to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Southwest Tire is assessed an administrative penalty in the amount of twelve thousand one hundred forty dollars (\$12,140.00) as set forth in Conclusion of Law No. 11 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Southwest Tire's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Southwest Tire Disposal, L.L.C.; Docket No. 2001-0725-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. Southwest Tire shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in paragraph 11, six thousand seventy dollars (\$6,070.00) of the assessed administrative penalty shall be offset with the condition that Southwest Tire implement the SEP defined in Attachment A, incorporated herein by reference. Southwest Tire's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. Southwest Tire shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Southwest Tire shall:

- i. Ensure that all used and scrap tires it transports are delivered to an authorized site, in accordance with 30 TEX. ADMIN. CODE § 328.57(c)(3); and
 - ii. Ensure that all used and scrap tires it transports are properly manifested, in accordance with 30 TEX. ADMIN. CODE § 328.58(b).
 - iii. Ensure that all tire transportation vehicles are marked with the transporter's name, place of business, and Commission registration number, in accordance with 30 TEX. ADMIN. CODE § 328.54(d).
- b. Within 45 days after the effective date of this Agreed Order, Southwest Tire shall submit written certification of compliance as described below and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.iii.

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:

Work Leader
Team 5, Section III
Enforcement Division, MC 149
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Terry McMillan, Water/Waste Section Manager
Texas Commission on Environmental Quality
El Paso Regional Office
7500 Viscount Blvd, Suite 147
El Paso, Texas 79925-5633

4. The provisions of this Agreed Order shall apply to and be binding upon Southwest Tire. Southwest Tire is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Canutillo Facility referenced in this Agreed Order.
5. If Southwest Tire 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, Southwest Tire's failure to comply is not a violation of this Agreed Order. Southwest Tire has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Southwest Tire shall notify the Executive Director within seven days after Southwest Tire becomes 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 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 Southwest Tire shall be made in writing to the Executive Director. Extensions are not effective until Southwest Tire receives 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 Southwest Tire if the Executive Director determines that Southwest Tire has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. This Agreed Order, issued by the Commission, shall not be admissible against Southwest Tire in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to Southwest Tire, or three days after the date on which the Commission mails notice of the Order to Southwest Tire, whichever is earlier.

Southwest Tire Disposal, L.L.C.
DOCKET NO. 2001-0725-MSW-E
Page 8

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]

For the Executive Director

2/5/07

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Southwest Tire Disposal, L.L.C.. I represent that I am authorized to agree to the attached Agreed Order on behalf of Southwest Tire Disposal, L.L.C., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Southwest Tire Disposal, L.L.C. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

[Handwritten Signature]

Signature

Robert S. Hough

Name (printed or typed)

Authorized Representative, Southwest Tire Disposal, L.L.C.

1/18/07

Date

President
Title

Attachment A

Docket Number: 2000-1137-MSW-E

Docket Number: 2001-0725-MSW-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Southwest Tire Disposal, L.L.C.
Amount of Penalty:	Twelve Thousand One Hundred Forty Dollars (\$12,140)
Amount of Offset for the SEP:	Six Thousand Seventy Dollars (\$6,070)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Resource Conservation & Development, Inc.
Location of SEP:	El Paso, Texas (El Paso County)

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty assessed in this Agreed Order under the condition that the Respondent shall perform and comply with the following Supplemental Environmental Project ("SEP") provisions. The amount of the offset for the SEP is conditioned upon completion of the project in accordance with the terms set forth below.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ, specifically, the *Supplemental Environmental Project Agreement between the RC&D and the TCEQ*. The contribution will be used to clean-up sites in El Paso County where tires have been disposed of illegally. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. Respondent agrees that any tire waste collected shall not be processed, stored, or disposed of by any facilities owned or operated by Southwest Tire Disposal, L.L.C., and that Respondent shall not profit in any manner from the performance of this SEP. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites

Southwest Tire Disposal, L.L.C.

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Attachment A

can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The SEP is based upon the Respondent's agreement to spend at least **Six Thousand Seventy dollars (\$6,070)** to complete the project described above and to comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall make the required contribution to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, TX 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP contribution, The Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the contribution to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of all required funds and the submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the Amount of Offset for the SEP.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues

Southwest Tire Disposal, L.L.C.

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Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the 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

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.