# EXECUTIVE SUMMARY - ENFORCEMENT MATTER



**DOCKET NO.:** 2007-1184-MSW-E **TCEQ ID:** RN103042867 **CASE NO.:** 33476

**RESPONDENT NAME:** Martha Gallison dba Mt. Houston Tire Disposal

| ORDER TYPE: | | |
|---|---|---|
| X 1660 AGREED ORDER | __FINDINGS AGREED ORDER | __FINDINGS ORDER FOLLOWING SOAH HEARING |
| __FINDINGS DEFAULT ORDER | __SHUTDOWN ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __AMENDED ORDER | __EMERGENCY ORDER | |
| **CASE TYPE:** | | |
| __AIR | __MULTI-MEDIA (check all that apply) | __INDUSTRIAL AND HAZARDOUS WASTE |
| __PUBLIC WATER SUPPLY | __PETROLEUM STORAGE TANKS | __OCCUPATIONAL CERTIFICATION |
| __WATER QUALITY | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL |
| X MUNICIPAL SOLID WASTE | __RADIOACTIVE WASTE | __DRY CLEANER REGISTRATION |

**SITE WHERE VIOLATION(S) OCCURRED:** Mt. Houston Tire Disposal, 5100 Mount Houston Road, Houston, Harris County

**TYPE OF OPERATION:** Scrap tire processor

**SMALL BUSINESS:** X **Yes** ___ **No**

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

**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 January 4, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Dana Shuler, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2505; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

**Respondent:** Ms. Martha Gallison, Owner, Mt. Houston Tire Disposal, 5100 Mount Houston Road, Houston, Texas 77093

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:**<br>___ Complaint<br>_X_ Routine<br>___ Enforcement Follow-up<br>___ Records Review<br><br>**Date(s) of Complaints Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** February 9, 2007<br><br>**Date of NOV/NOE Relating to this Case:** April 25, 2007 (NOE)<br><br>**Background Facts:** This was a routine investigation.<br><br>**WASTE**<br><br>1) Failure to properly manifest shipments of scrap tires for disposal. Specifically, four original manifests did not contain the secondary transporter information or the disposal facility information. Additionally, the top originals of the five-part manifests were not being returned to the generator within 60 days of the date and time of collection [30 TEX. ADMIN. CODE § 328.58(c)].<br><br>2) Failure to obtain a scrap tire storage registration prior to storing more than 500 tires. Specifically, approximately 6,500 to 7,000 scrap tires were observed being stored at the Facility without a scrap tire storage registration [30 TEX. ADMIN. CODE §§ 328.60(a) and 328.63(b)(2)].<br><br>3) Failure to ensure that scrap tires and scrap tire pieces are transported by a registered tire transporter. Specifically, the Respondent subcontracted Tornado Waste, an unregistered tire transporter, to transport scrap tire pieces for disposal [30 TEX. ADMIN. CODE §§ 328.56(b) and 328.57(c)(3)]. | **Total Assessed:** $5,940<br><br>**Total Deferred:** $1,188<br>_X_ Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $0<br><br>**Total Paid (Due) to General Revenue:** $198 (remaining $4,554 due in 23 monthly payments of $198 each)<br><br>**Site Compliance History Classification**<br>___ **High** _X_ **Average** __ **Poor**<br><br>**Person Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Major Source:** _X_ Yes ___ No<br><br>**Applicable Penalty Policy:** September 2002 | **Corrective Actions Taken:**<br><br>The Executive Director recognizes that the Facility caught fire and was completely destroyed on April 5, 2007. TCEQ investigators have since visited the site and documented that it had been cleaned up and is no longer in business. |

Additional ID No(s).: 6027052

# Penalty Calculation Worksheet (PCW)

*Policy Revision 2 (September 2002)* — *PCW Revision May 25, 2007*

TCEQ

| DATES | | | | | | |
|---|---|---|---|---|---|---|
| Assigned | 30-Apr-2007 | | | | | |
| PCW | 23-Jul-2007 | Screening | 8-May-2007 | EPA Due | | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Martha Gallison dba Mt. Houston Tire Disposal | | |
| Reg. Ent. Ref. No. | RN103042867 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Major |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 33476 | No. of Violations | 3 |
| Docket No. | 2007-1184-MSW-E | Order Type | 1660 |
| Media Program(s) | Waste Tires | Enf. Coordinator | Mike Limos |
| Multi-Media | | EC's Team | EnforcementTeam 7 |
| Admin. Penalty $ Limit Minimum | $0 | Maximum | $10,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** — *Subtotal 1*: $5,400

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** — 10% Enhancement — *Subtotals 2, 3, & 7*: $540

Notes: The Respondent received two NOVs with same or similar violations.

**Culpability** — No — 0% Enhancement — *Subtotal 4*: $0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** — 0% Reduction — *Subtotal 5*: $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.

0% Enhancement* — *Subtotal 6*: $0

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $1,864 |
| Approx. Cost of Compliance | $10,720 |

**SUM OF SUBTOTALS 1-7** — *Final Subtotal*: $5,940

**OTHER FACTORS AS JUSTICE MAY REQUIRE** — *Adjustment*: $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

*Final Penalty Amount*: $5,940

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty*: $5,940

**DEFERRAL** — 20% Reduction — *Adjustment*: -$1,188

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY**: $4,752

**Screening Date** 8-May-2007 **Docket No.** 2007-1184-MSW-E **PCW**

**Respondent** Martha Gallison dba Mt. Houston Tire Disposal *Policy Revision 2 (September 2002)*

**Case ID No.** 33476 *PCW Revision May 25, 2007*

**Reg. Ent. Reference No.** RN103042867

**Media [Statute]** Waste Tires

**Enf. Coordinator** Mike Limos

# 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*) | 2 | 10% |
| | 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 judgements 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% |

| | | *Please Enter Yes or No* | |
|---|---|---|---|
| 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)*** 10%

**>> 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 Respondent received two NOVs with same or similar violations.

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

**Screening Date** 8-May-2007 **Docket No.** 2007-1184-MSW-E **PCW**

**Respondent** Martha Gallison dba Mt. Houston Tire Disposal *Policy Revision 2 (September 2002)*

**Case ID No.** 33476 *PCW Revision May 25, 2007*

**Reg. Ent. Reference No.** RN103042867

**Media [Statute]** Waste Tires

**Enf. Coordinator** Mike Limos

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 328.58(c)

**Violation Description** Failed to properly manifest shipments of scrap tires for disposal, as documented during an investigation conducted on February 9, 2007. Specifically, four original manifests did not contain the secondary transporter information or the disposal facility information. Additionally, the top originals of the five-part manifests were not being returned to the generator within 60 days of the date and time of collection.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | x |

**Percent** 1%

Matrix Notes: Over 70% of the rule requirement was met.

**Adjustment** $9,900

$100

## Violation Events

Number of Violation Events: 4

1 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $400

Four single events are recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $200

## Statutory Limit Test

**Violation Final Penalty Total** $440

**This violation Final Assessed Penalty (adjusted for limits)** $440

# Economic Benefit Worksheet

**Respondent** Martha Gallison dba Mt. Houston Tire Disposal
**Case ID No.** 33476
**Reg. Ent. Reference No.** RN103042867
**Media** Waste Tires
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | 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/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | $200 | 9-Feb-2007 | 9-Feb-2007 | 0.0 | $0 | $200 | $200 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Notes for AVOIDED costs | Estimated cost to comply with all of the manifest requirements calculated from the investigation date. | | | | | | |

**Approx. Cost of Compliance** $200

**TOTAL** $200

**Screening Date** 8-May-2007 **Docket No.** 2007-1184-MSW-E **PCW**

**Respondent** Martha Gallison dba Mt. Houston Tire Disposal *Policy Revision 2 (September 2002)*

**Case ID No.** 33476 *PCW Revision May 25, 2007*

**Reg. Ent. Reference No.** RN103042867

**Media [Statute]** Waste Tires

**Enf. Coordinator** Mike Limos

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code §§ 328.60(a) and 328.63(b)(2)

**Violation Description** Failed to obtain a scrap tire storage registration prior to storing more than 500 tires, as documented during an investigation conducted on February 9, 2007. Specifically, approximately 6,500 to 7,000 scrap tires were observed being stored at the Facility without a scrap tire storage registration.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 25%

Matrix Notes: 100% of the rule requirement was not met.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 1 — 88 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $2,500

One quarterly event is recommended from the 2/9/07 investigation to the 5/8/07 screening date.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $1,506

## Statutory Limit Test

**Violation Final Penalty Total** $2,750

**This violation Final Assessed Penalty (adjusted for limits)** $2,750

# Economic Benefit Worksheet

**Respondent** Martha Gallison dba Mt. Houston Tire Disposal
**Case ID No.** 33476
**Reg. Ent. Reference No.** RN103042867
**Media** Waste Tires
**Violation No.** 2

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Item Description** | 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 | $9,520 | 9-Feb-2007 | 5-Apr-2007 | 0.2 | $72 | $1,435 | $1,506 |
| 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 | Estimated cost to properly dispose of 7,000 scrap tires calculated from the investigation date to the date the facility burned down. Tire disposal estimates were calculated using disposal costs of $80 per ton multiplied by the approximate weight of 7,000 tires at 119 tons. | | | | | | |

**Approx. Cost of Compliance** $9,520

**TOTAL** $1,506

**Screening Date** 8-May-2007 **Docket No.** 2007-1184-MSW-E **PCW**

**Respondent** Martha Gallison dba Mt. Houston Tire Disposal *Policy Revision 2 (September 2002)*

**Case ID No.** 33476 *PCW Revision May 25, 2007*

**Reg. Ent. Reference No.** RN103042867

**Media [Statute]** Waste Tires

**Enf. Coordinator** Mike Limos

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code §§ 328.56(b) and 328.57(c)(3)

**Violation Description** Failed to ensure that scrap tires and scrap tire pieces are transported by a registered tire transporter, as documented during an investigation conducted on February 9, 2007. Specifically, the Respondent subcontracted Tornado Waste, an unregistered tire transporter, to transport scrap tire pieces for disposal.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | x | |

**Percent** 25%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent** 0%

Matrix Notes: Human health and the environment will or could be exposed to a significant amount of pollutants which would not exceed protective levels.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events: 1

88 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $2,500

One quarterly event is recommended from the 2/9/07 investigation date to the 5/8/07 screening date.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $158

## Statutory Limit Test

**Violation Final Penalty Total** $2,750

**This violation Final Assessed Penalty (adjusted for limits)** $2,750

# Economic Benefit Worksheet

**Respondent** Martha Gallison dba Mt. Houston Tire Disposal
**Case ID No.** 33476
**Reg. Ent. Reference No.** RN103042867
**Media** Waste Tires
**Violation No.** 3

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | Item Cost | 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 | $1,000 | 9-Feb-2007 | 5-Apr-2007 | 0.2 | $8 | $151 | $158 |
| 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 | Estimated cost to ensure that scrap tires are transported to an authorized disposal facility by a registered transporter calculated from the investigation date to the date the facility burned down. | | | | | | |

**Approx. Cost of Compliance** $1,000

**TOTAL** $158

# Compliance History

Customer/Respondent/Owner-Operator: CN603275975 GALLISON, MARTHA Classification: AVERAGE Rating: 3.50

Regulated Entity: RN103042867 MT HOUSTON TIRE DISPOSAL Classification: AVERAGE Site Rating: 3.50

ID Number(s):

| | | |
|---|---|---|
| TIRES | REGISTRATION | 6027052 |
| TIRES | REGISTRATION | 6027052 |

Location: 5100 MOUNT HOUSTON RD, HOUSTON, TX, 77093

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 16, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 12, 2002 to July 12, 2007

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

Name: Dana Shuler Phone: (512) 239-2505

## 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? Yes
3. If Yes, who is the current owner? Mount Houston Tire Disposal
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.)

N/A
1 04/02/2003 (29586)
2 11/16/2004 (112956)
3 04/25/2007 (554538)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/02/2003 (29586)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 328, SubChapter F 328.54(d)
Description: At the time of investigation, the investigators observed the transporter's trailer without the required labeling.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 328, SubChapter F 328.55(4)(C)
Description: The investigators observed the facility changed the registered name from J & J Used Tires to Mt. Houston Tire Disposal. The facility has been operating with the name change for more than three months.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 328, SubChapter F 328.58(b)
Description: During the investigation, the investigators observed the five-part manifest with only the top original of the manifest with the transporter information.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 328, SubChapter F 328.58(c)
Description: The authorized facility accepting delivery of the used or scrap tires or tire pieces failed to complete the information on the manifest pertaining to the authorized facility identification and number or weight of tires or tire pieces accepted for delivery.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.5(c)

Description: The facility caused, suffered, allowed, and\or permitted the dumping of municipal solid waste without the written authorization of the commission.

Date: 08/11/2006 (485983)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 328, SubChapter F 328.63(d)(2)

Description: Inadequate operation or maintenance; appropriate vector control measures shall be utilized at least once every two weeks.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 328, SubChapter F 328.58(c)

Description: Failed to properly manifest shipments of scrap tires for disposal.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)
30 TAC Chapter 328, SubChapter F 328.63(b)(2)

Description: Failed to obtain a scrap tire storage registration prior to storing more than 500 tires.

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 MARTHA GALLISON DBA MT. HOUSTON TIRE DISPOSAL RN103042867** | § | **BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2007-1184-MSW-E**

## I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Martha Gallison dba Mt. Houston Tire Disposal ("Ms. Gallison") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Ms. Gallison appear before the Commission and together stipulate that:

1. Ms. Gallison owned and operated a scrap tire processing facility at 5100 Mount Houston Road in Houston, Harris County, Texas (the "Facility").

2. The Facility involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

3. The Commission and Ms. Gallison agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Gallison is subject to the Commission's jurisdiction.

4. Ms. Gallison received notice of the violations alleged in Section II ("Allegations") on or about April 30, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ms. Gallison of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Nine Hundred Forty Dollars ($5,940) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ms. Gallison has paid One Hundred Ninety-Eight Dollars ($198) of the administrative penalty and One Thousand One Hundred Eighty-Eight Dollars ($1,188) is deferred contingent upon Ms. Gallison's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Ms. Gallison fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Ms. Gallison to pay all or part of the deferred penalty.

   The remaining amount of Four Thousand Five Hundred Fifty-Four Dollars ($4,554) of the administrative penalty shall be payable in 23 monthly payments of One Hundred Ninety-Eight Dollars ($198) 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 requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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 Ms. Gallison to meet the payment schedule of this Agreed Order constitutes the failure by Ms. Gallison to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Ms. Gallison have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that the Facility caught fire and was completely destroyed on April 5, 2007. TCEQ investigators have since visited the Facility and documented that it had been cleaned up and is no longer in business.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Ms. Gallison has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Ms. Gallison is alleged to have:

1. Failed to properly manifest shipments of scrap tires for disposal, in violation of 30 TEX. ADMIN. CODE § 328.58(c), as documented during an investigation conducted on February 9, 2007. Specifically, four original manifests did not contain the secondary transporter information or the disposal facility information. Additionally, the top originals of the five-part manifests were not being returned to the generator within 60 days of the date and time of collection.

2. Failed to obtain a scrap tire storage registration prior to storing more than 500 tires, in violation of 30 TEX. ADMIN. CODE §§ 328.60(a) and 328.63(b)(2), as documented during an investigation conducted on February 9, 2007. Specifically, approximately 6,500 to 7,000 scrap tires were observed being stored at the Facility without a scrap tire storage registration.

3. Failed to ensure that scrap tires and scrap tire pieces are transported by a registered tire transporter, in violation of 30 TEX. ADMIN. CODE §§ 328.56(b) and 328.57(c)(3), as documented during an investigation conducted on February 9, 2007. Specifically, Ms. Gallison subcontracted Tornado Waste, an unregistered tire transporter, to transport scrap tire pieces for disposal.

## III. DENIALS

Ms. Gallison generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ms. Gallison pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Ms. Gallison's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Martha Gallison dba Mt. Houston Tire Disposal, Docket No. 2007-1184-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. The provisions of this Agreed Order shall apply to and be binding upon Ms. Gallison. Ms. Gallison is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

3. If Ms. Gallison 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, Ms. Gallison's failure to comply is not a violation of this Agreed Order. Ms. Gallison shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Gallison shall notify the Executive Director within seven days after Ms. Gallison becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. 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 Ms. Gallison shall be made in writing to the Executive Director. Extensions are not effective until Ms. Gallison receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Gallison 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.

6. 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.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Ms. Gallison, or three days after the date on which the Commission mails notice of the Order to Ms. Gallison, 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

John Sadlier
For the Executive Director

1/11/08
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Martha Gallison
Signature

10-12-07
Date

MARTHA GALLISON dba MT. HOUSTON Tire Disp.
Name (Printed or typed)
Authorized Representative of
Martha Gallison dba Mt. Houston Tire Disposal

OWNER
Title

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