

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.: 2007-0746-MLM-E TCEQ ID: RN104759576 CASE NO.: 33229**  
**RESPONDENT NAME: ENVIRONMENTAL RECYCLE INC.**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 2721 North Custer Road, Collin County</p> <p><b>TYPE OF OPERATION:</b> Municipal solid waste recycling facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There is no record of additional pending enforcement actions regarding this facility.</p> <p><b>INTERESTED PARTIES:</b> There has been a complaint, but the complainant has not indicated a desire to protest this action or to speak at Agenda. No one other than the ED and the Respondent have express an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 4, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="margin-left: 20px;"><b>TCEQ Attorney:</b> Mr. Shawn A. Slack, Litigation Division, MC 175, (512) 239-0063  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p style="margin-left: 20px;"><b>TCEQ Enforcement Coordinator:</b> Mr. Colin Barth, Waste Enforcement Section, MC 128, (512) 239-0068</p> <p style="margin-left: 20px;"><b>TCEQ Regional Contact:</b> Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903</p> <p style="margin-left: 20px;"><b>Respondent:</b> Ms. Darlene Driver, President, Environmental Recycle, Inc., 2721 North Custer Road, McKinney, Texas 75071</p> <p style="margin-left: 20px;"><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> October 17, 2006</p> <p><b>Dates of Investigation Relating to this Case:</b> January 31, 2007, and August 23, 2007</p> <p><b>Date of NOVs/NOE Relating to this Case:</b> February 20, 2007 (NOE)</p> <p><b>Background Facts:</b> An EDPRP was filed in this matter on September 10, 2007. The parties reached a settlement agreement and an Agreed Order was sent to the Respondent on September 17, 2007. A signed Agreed Order and payment were received on or about October 20, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>MLM</b></p> <p>1. Failed to establish and maintain financial assurance for closure of a municipal solid waste recycling facility, as documented on January 31, 2007 [30 TEX. ADMIN. CODE § 328.5(d)].</p> <p>2. Failed to remove non-recyclable waste from the Facility within one week after processing it for recycling, as documented on January 31, 2007, and August 23, 2007. Specifically, approximately 45 cubic yards of non-recyclable waste and sheetrock was kept at the Facility for over a month after it was processed [30 TEX. ADMIN. CODE § 328.2(3)].</p> <p>3. Failed to update the Facility's Notice of Intent ("NOI") with 90 days of the effective date of the change, as documented on January 31, 2007, and August 23, 2007. Specifically, the NOI indicated that processing and storing of materials are to be done indoors; however, at the time of the investigation the processing and storing of materials was conducted outside [30 TEX. ADMIN. CODE § 328.5(b)(4)].</p> <p>4. Failed to prevent the discharge of municipal solid waste into or adjacent to waters in the state, as documented on January 31, 2007, and August 23, 2007. Specifically, the investigator observed approximately 2 cubic yards of mulch in the drainage ditch on the north side of the facility [TEX. WATER CODE § 26.121(a)].</p>	<p><b>Total Assessed:</b> \$3,640</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid/Due to General Revenue:</b> \$140/\$3,500</p> <p>The Respondent has paid \$140 of the administrative penalty. The remaining amount of \$3,500 of the administrative penalty shall be payable in 35 monthly payments of \$100 each.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b>  September 2002</p>	<p><b>Corrective Action:</b></p> <p>The Respondent removed the approximately 45 cubic yards of non-recyclable waste and sheetrock that was kept at the Facility for over a month after it was processed.</p> <p><b>Technical Requirement(s):</b></p> <p>The Respondent shall undertake the following technical requirements.</p> <ol style="list-style-type: none"> <li>1. Remove and properly dispose of all mulch found in the drainage ditch on the north side of the Facility.</li> <li>2. Establish and maintain acceptable financial assurance for closure of the Facility.</li> <li>3. Submit an updated NOI, to include monthly acceptance rates and maximum storage amount at the Facility.</li> </ol>



# Penalty Calculation Worksheet (PCW)

TCEQ

<b>DATES</b>	<b>Assigned</b>	26-Feb-2007		
	<b>PCW</b>	9-Jul-2007	<b>Screening</b>	17-Apr-2007
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Environmental Recycle Inc.		
<b>Reg. Ent. Ref. No.</b>	RN104759576		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	33229	<b>No. of Violations</b>	4
<b>Docket No.</b>	2007-0746-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Enf. Coordinator</b>	Colin Barth
<b>Multi-Media</b>	Water Quality	<b>EC's Team</b>	EnforcementTeam 8
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply** **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

**Notes**

**Total EB Amounts**  **Subtotal 6**   
**Approx. Cost of Compliance**  **\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

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

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Reduction Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 17-Apr-2007

Docket No. 2007-0746-MLM-E

PCW

Respondent Environmental Recycle Inc.

Policy Revision 2 (September 2002)

Case ID No. 33229

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104759576

Media [Statute] Municipal Solid Waste

Enf. Coordinator Colin Barth

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	2	4%
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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 4%

>> 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 has two previous NOVs for dissimilar violations at this site in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 17-Apr-2007

Docket No. 2007-0746-MLM-E

PCW

Respondent Environmental Recycle Inc.

Policy Revision 2 (September 2002)

Case ID No. 33229

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104759576

Media [Statute] Municipal Solid Waste

Enf. Coordinator Colin Barth

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events   Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>	

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent:** Environmental Recycle Inc.  
**Case ID No.:** 33229  
**Reg. Ent. Reference No.:** RN104759576  
**Media:** Municipal Solid Waste  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$590	31-Jan-2007	12-Dec-2007	1.0	\$30	\$590	\$620
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 establish and maintain financial assurance. Date Required is the date the financial assurance was required and Final Date is the estimated date of compliance.

Approx. Cost of Compliance

\$590

**TOTAL**

\$620

Screening Date 17-Apr-2007

Docket No. 2007-0746-MLM-E

PCW

Respondent Environmental Recycle Inc.

Policy Revision 2 (September 2002)

Case ID No. 33229

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104759576

Media [Statute] Municipal Solid Waste

Enf. Coordinator Colin Barth

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 328.2(3)

Violation Description

Failed to remove non-recyclable waste from the site within one week after processing it for recycling, as documented during an investigation conducted on January 31, 2007. Specifically, approximately 45 cubic yards of non-recyclable waste and sheetrock had been at the site for over a month after it was processed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Human health will or could be exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 76

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$520

This violation Final Assessed Penalty (adjusted for limits) \$520

## Economic Benefit Worksheet

**Respondent** Environmental Recycle Inc.  
**Case ID No.** 33229  
**Reg. Ent. Reference No.** RN104759576  
**Media** Municipal Solid Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$585	31-Jan-2007	15-Feb-2007	0.0	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to remove and properly dispose of approximately 45 cubic yards of waste at \$13 dollars a cubic yard from the investigation date to the February 15, 2007 date of compliance.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$585

**TOTAL**

\$1

Screening Date 17-Apr-2007

Docket No. 2007-0746-MLM-E

PCW

Respondent Environmental Recycle Inc.

Policy Revision 2 (September 2002)

Case ID No. 33229

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104759576

Media [Statute] Municipal Solid Waste

Enf. Coordinator Colin Barth

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 328.5(b)(4)

Violation Description Failed to update the facility's Notice of Intent (NOI) within 90 days of the effective to date of the change, as documented during an investigation conducted on January 31, 2007. Specifically, the NOI indicated that processing and storing of materials were to be done indoors, however at the time of the investigation the processing and storing of materials was conducted outside .

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 76

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,040

This violation Final Assessed Penalty (adjusted for limits) \$1,040

## Economic Benefit Worksheet

**Respondent:** Environmental Recycle Inc.  
**Case ID No.:** 33229  
**Reg. Ent. Reference No.:** RN104759576  
**Media:** Municipal Solid Waste  
**Violation No.:** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	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)	\$100	31-Jan-2007	12-Dec-2007	0.9	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost submit an updated NOI from the investigation date to the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$4

Screening Date 17-Apr-2007

Docket No. 2007-0746-MLM-E

PCW

Respondent Environmental Recycle Inc.

Policy Revision 2 (September 2002)

Case ID No. 33229

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN104759576

Media [Statute] Municipal Solid Waste

Enf. Coordinator Colin Barth

Violation Number 4

Rule Cite(s)

Texas Water Code § 26.121(a)

Violation Description

Failed to prevent the discharge of municipal solid waste into or adjacent to waters in the state, as documented during an investigation conducted on January 31, 2007. Specifically, the investigator observed approximately 2 cubic yards of mulch in the drainage ditch on the north side of the facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

76 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
single event		

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date of January 31, 2007 to the screening date of April 17, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$1,040

This violation Final Assessed Penalty (adjusted for limits) \$1,040

## Economic Benefit Worksheet

**Respondent:** Environmental Recycle Inc.  
**Case ID No.:** 33229  
**Reg. Ent. Reference No.:** RN104759576  
**Media:** Municipal Solid Waste  
**Violation No.:** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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	31-Jan-2007	12-Dec-2007	0.9	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to remove and properly dispose of approximately 2 cubic yards of mulch in the drainage ditch on the north side of the facility from the investigation date to the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

**TOTAL**

\$9

# Compliance History

Customer/Respondent/Owner-Operator: CN602911315 Environmental Recycle Inc. Classification: AVERAGE Rating: 2.84  
 Regulated Entity: RN104759576 ENVIRONMENTAL RECYCLE INC. Classification: AVERAGE Site Rating: 2.50  
 ID Number(s): MUNICIPAL SOLID WASTE PROCESSING PERMIT 100115  
 MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 100115  
 AIR NEW SOURCE PERMITS REGISTRATION 78234  
 Location: 2721 N CUSTER RD, OUTSIDE PROSPER, TX, 75078 Rating Date: 9/1/2006 Repeat Violator: NO  
 TCEQ Region: REGION 04 - DFW METROPLEX  
 Date Compliance History Prepared: April 10, 2007  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: April 10, 2002 to April 10, 2007

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

Name: Colin Barth Phone: 512 239 0086

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CEEDS Inv. Track. No.)  
1 03/29/2006 (459774)  
N/A
- E. Written notices of violations (NOV). (CEEDS Inv. Track. No.)  
 Date: 01/25/2006 (450415)  
 Self Report? NO Classification: Major  
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
 5C THC Chapter 382, SubChapter A 382.0518(a)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Description: Failure to obtain authorization of air emissions prior to operation.  
 Date: 11/29/2006 (510741)  
 Self Report? NO Classification: Major  
 Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)  
 5C THC Chapter 382, SubChapter A 382.0518(a)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Description: Failed to obtain authorization prior to operation of their grinding operation to grind flagstone.
- 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  
ENVIRONMENTAL  
RECYCLE INC.;  
RN104759576

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-0746-MLM-E**  
**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Environmental Recycle Inc. ("Environmental") under the authority of TEX. WATER CODE chs. 7 and 26, and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Environmental, appear before the Commission and together stipulate that:

1. Environmental owns and operates a municipal solid waste recycling facility at 2721 North Custer Road outside Prosper, Collin County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361, TEX. WATER CODE ch. 26, and TCEQ rules.
3. The Commission and Environmental agree that the Commission has jurisdiction to enter this Agreed Order, and that Environmental is subject to the Commission's jurisdiction.
4. Environmental received notice of the violations alleged in Section II ("Allegations") on or about February 25, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Environmental of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of three thousand six hundred forty dollars

(\$3,640.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Environmental has paid one hundred forty dollars (\$140.00) of the administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) of the administrative penalty shall be payable in thirty-five monthly payments of one hundred dollars (\$100.00) 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 Environmental 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 Environmental to meet the payment schedule of this Agreed Order constitutes the failure by Environmental to timely and satisfactorily comply with all of 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 Environmental have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Environmental has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. 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

Environmental is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 328.5(d), by failing to establish and maintain financial assurance for closure of a municipal solid waste recycling facility, as documented on January 31, 2007, and August 23, 2007.

2. 30 TEX. ADMIN. CODE § 328.2(3), by failing to remove non-recyclable waste from the Facility within one week after processing it for recycling, as documented on January 31, 2007, and August 23, 2007. Specifically, approximately 45 cubic yards of non-recyclable waste and sheetrock was kept at the Facility for over a month after it was processed.
3. 30 TEX. ADMIN. CODE § 328.5(b)(4), by failing to update the Facility's Notice of Intent ("NOI") within 90 days of the effective date of the change, as documented on January 31, 2007, and August 23, 2007. Specifically, the NOI indicated that processing and storing of materials are to be done indoors; however, at the time of the investigation the processing and storing of materials was conducted outside.
4. TEXAS WATER CODE § 26.121(a), by failing to prevent the discharge of municipal solid waste into or adjacent to waters in the state, as documented on January 31, 2007, and August 23, 2007. Specifically, the investigator observed approximately 2 cubic yards of mulch in the drainage ditch on the north side of the facility.

### III. DENIALS

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

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that Environmental pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Environmental'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 considering or requiring corrective action or penalties for violations which 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: Environmental Recycle, Inc., Docket No. 2007-0746-MLM-E" to:

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

2. Environmental shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order, Environmental shall remove and properly dispose of all mulch found in the drainage ditch on the north side of the Facility;
- b. Within 30 days after the effective date of this Agreed Order, Environmental shall:
  - i. Establish and maintain acceptable financial assurance for closure of the Facility, in accordance with, 30 TEX. ADMIN. CODE § 328.5(d); and
  - ii. Submit an updated NOI, to include monthly acceptance rates and maximum storage amount at the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.5(b)(4). Submit copies of the NOI to the address listed in Ordering Provision 2.c. and submit the NOI to:

Municipal Solid Waste Permits Section  
Waste Permits Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 45 days after the effective date of this Agreed Order, Environmental shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon Environmental. Environmental 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.
4. If Environmental 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, Environmental's failure to comply is not a violation of this Agreed Order. Environmental shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Environmental shall notify the Executive Director within seven days after Environmental becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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 Environmental shall be made in writing to the Executive Director. Extensions are not effective until Environmental receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Environmental 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.
7. 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.

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

Environmental Recycle, Inc.  
Docket No. 2007-0746-MLM-E  
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*[Handwritten Signature]*

For the Executive Director

11/29/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 Environmental's failure to comply with the Ordering Provisions, if any, in this order and/or Environmental's failure to timely pay the penalty amount, may result in:

- A negative impact on Environmental's compliance history;
- Greater scrutiny of any permit applications submitted by Environmental;
- 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 Environmental;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Environmental; 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

10/18/07

Date

*[Handwritten Name]*

Name (Printed or typed)

*[Handwritten Title]*

Title

Authorized representative of  
Environmental Recycle, Inc.