

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0964-MSW-E TCEQ ID: RN105112874 CASE NO.: 36050
RESPONDENT NAME: JMJ ORGANICS LTD

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 13610 Reeveston Road, Houston, Harris County</p> <p>TYPE OF OPERATION: Wood recycling facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 4, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 128, (512) 239-6933 TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623 Respondent: Mr. Michael Bouman, Registered Agent, JMJ Organics LTD., 314 Sawdust Road, Suite 201, The Woodlands, TX 77380 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Date of Investigation Relating to this Case: February 15, 2008</p> <p>Date of NOE Relating to this Case: July 5, 2008</p> <p>Background Facts: The EDP RP was filed on November 18, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDP RP on November 20, 2008, as evidenced by the signature on the card. The Respondent has failed to answer the EDP RP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The respondent has not taken corrective actions to address any of the violations.</p> <p>MSW:</p> <p>1. Failed to maintain all records necessary to show training of staff in the inspection of incoming loads to ensure that they contain no more than 10% incidental non-recyclable waste [30 TEX. ADMIN. CODE § 328.5(f)(2)(B)].</p> <p>2. Failed to have a setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feedstock or finished product [30 TEX. ADMIN. CODE § 332.8(c)(1)].</p> <p>3. Failed to establish and maintain financial assurance for the closure of a recycling facility that stores combustible materials (mulch and wood waste) outdoors [30 TEX. ADMIN. CODE § 328.5(d)].</p>	<p>Total Assessed: \$ 6,539</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$6,539</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 1, 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, cease accepting and processing any municipal solid waste until in compliance with this Order. 2. Within 15 days, submit documentation to show training of staff in the inspection of incoming loads to ensure that they contain no more than 10% incidental non-recyclable waste. 3. Within 30 days: <ol style="list-style-type: none"> a. Maintain a setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feedstock or finished product; and b. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility. c. In lieu of Ordering Provisions Nos. 2 and 3, cease accepting waste and recyclable materials and remove all accumulated materials and dispose at an authorized facility. 4. Respond completely and adequately to all letter requests for information within 30 days after the date of such letters or by any other deadline specified in writing. 5. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the above ordering provisions.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision April 29, 2008

DATES	Assigned	9-Jun-2008			
	PCW	9-Oct-2008	Screening	13-Jun-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	JMJ Organics LTD
Reg. Ent. Ref. No.	RN105112874
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36050	No. of Violations	3
Docket No.	2008-0964-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Clinton Sims
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7 \$0
Notes	No change due to average performer classification.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
Total EB Amounts	\$4,172	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,597	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,500
OTHER FACTORS AS JUSTICE MAY REQUIRE	161.0%	Adjustment \$4,039
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes	Recommended adjustment to capture the avoided cost associated with the violation.	
	Final Penalty Amount	\$6,539
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$6,539
DEFERRAL	0.0% Reduction	Adjustment \$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	Deferral not offered for non-expedited orders.	
PAYABLE PENALTY		\$6,539

Screening Date 13-Jun-2008

Docket No. 2008-0964-MSW-E

PCW

Respondent JMJ Organics LTD

Policy Revision 2 (September 2002)

Case ID No. 36050

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN105112874

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to average performer classification.

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

Screening Date 13-Jun-2008	Docket No. 2008-0964-MSW-E	PCW		
Respondent JMJ Organics LTD		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36050		<small>PCW Revision April 29, 2008</small>		
Reg. Ent. Reference No. RN105112874				
Media [Statute] Municipal Solid Waste				
Enf. Coordinator Clinton Sims				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 328.5(f)(2)(B)			
Violation Description	Failed to maintain all records necessary to show training of staff in the inspection of incoming loads to ensure that they contain no more than 10% incidental non-recyclable waste, as documented during an investigation conducted on February 15, 2008. Specifically, the Respondent did not have staff training records at the time of the investigation.			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual <input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential <input type="text"/>	<input type="text"/>	<input type="text"/>	
		Percent	<input type="text" value="0%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.			
		Adjustment	<input type="text" value="\$9,000"/>	
<input type="text" value="\$1,000"/>				
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="119"/>	Number of violation days
	<small>mark only one with an x</small>	daily <input type="text"/>		
		monthly <input type="text"/>		
		quarterly <input type="text"/>		
		semiannual <input type="text"/>		
		annual <input type="text"/>		
	single event <input type="text" value="x"/>			
		One single event is recommended.		
	Violation Base Penalty	<input type="text" value="\$1,000"/>		
Good Faith Efforts to Comply				
	0.0% Reduction			<input type="text" value="\$0"/>
		Before NOV	NOV to EDRP/ Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.			
	Violation Subtotal	<input type="text" value="\$1,000"/>		
Economic Benefit (EB) for this violation				
	Estimated EB Amount	<input type="text" value="\$12"/>	Violation Final Penalty Total	<input type="text" value="\$2,610"/>
	This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$2,610"/>

Economic Benefit Worksheet

Respondent: JMJ Organics LTD
Case ID No.: 36050
Reg. Ent. Reference No.: RN105112874
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	15-Feb-2008	31-Jan-2009	0.96	\$12	n/a	\$12
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain all records of staff training. The Date Required is the investigation date and the Final Date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$12

Screening Date 13-Jun-2008	Docket No. 2008-0964-MSW-E	PCW	
Respondent JMJ Organics LTD		<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36050		<small>PCW Revision April 29, 2008</small>	
Reg. Ent. Reference No. RN105112874			
Media [Statute] Municipal Solid Waste			
Enf. Coordinator Clinton Sims			
Violation Number	2		
Rule Cite(s)	30 Tex. Admin. Code § 332.8(c)(1)		
Violation Description	Failed to have a setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feedstock or finished product, as documented during an investigation conducted on February 15, 2008. Specifically, it was observed that mulch was stockpiled within 10 feet of the property boundary on the north side of the facility.		
	Base Penalty	\$10,000	
>> Environmental, Property, and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	Potential	
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			Percent <input type="text" value="5%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Minor
			<input type="checkbox"/>
			Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels.		
	Adjustment	\$9,500	
			\$500
Violation Events			
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days
		<input type="text" value="119"/>	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input checked="" type="checkbox"/>	
			Violation Base Penalty
			\$500
One single event is recommended.			
Good Faith Efforts to Comply			
	0.0% Reduction		\$0
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/> (mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
	Violation Subtotal	\$500	
Economic Benefit (EB) for this violation			
	Estimated EB Amount	<input type="text" value="\$120"/>	Statutory Limit Test
			Violation Final Penalty Total
			\$1,305
			This violation Final Assessed Penalty (adjusted for limits)
			\$1,305

Economic Benefit Worksheet

Respondent: JMJ Organics LTD
Case ID No.: 36050
Reg. Ent. Reference No.: RN105112874
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
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Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land	\$2,500	15-Feb-2008	31-Jan-2009	0.96	\$120	n/a	\$120
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to maintain a setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feedstock or finished product. The Date Required is the investigation date and the Final Date is the expected date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$2,500 **TOTAL** \$120

Screening Date 13-Jun-2008	Docket No. 2008-0964-MSW-E	PCW	
Respondent JMJ Organics LTD		<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36050		<small>PCW Revision April 29, 2008</small>	
Reg. Ent. Reference No. RN105112874			
Media [Statute] Municipal Solid Waste			
Enf. Coordinator Clinton Sims			
Violation Number	3		
Rule Cite(s)	30 Tex. Admin. Code § 328.5(d)		
Violation Description	Failed to establish and maintain financial assurance for the closure of a recycling facility that stores combustible materials (mulch and wood waste) outdoors. Specifically, the Respondent did not have financial assurance at the time of the investigation.		
	Base Penalty	\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual		Percent 0%
	Potential		
>> Programmatic Matrix			
	Falsification	Major Moderate Minor	
		x	Percent 10%
Matrix Notes	100% of the rule requirement was not met.		
	Adjustment	\$9,000	
		\$1,000	
Violation Events			
	Number of Violation Events	1	Number of violation days 119
<small>mark only one with an x</small>	daily		Violation Base Penalty \$1,000
	monthly		
	quarterly		
	semiannual		
	annual	x	
	single event		
	One annual event is recommended.		
Good Faith Efforts to Comply			\$0
	0.0% Reduction		
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
	Violation Subtotal	\$1,000	
Economic Benefit (EB) for this violation			Statutory Limit Test
	Estimated EB Amount	\$4,039	Violation Final Penalty Total \$2,610
			This violation Final Assessed Penalty (adjusted for limits) \$2,610

Economic Benefit Worksheet

Respondent: JMJ Organics LTD
Case ID No.: 36050
Reg. Ent. Reference No.: RN105112874
Media: Municipal Solid Waste
Violation No.: 3

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]	\$3,847	15-Feb-2007	15-Feb-2008	1.00	\$192	\$3,847	\$4,039
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of obtaining financial assurance for the facility. The Date Required is the beginning date of the violation and the Final Date is the investigation date.

Approx. Cost of Compliance \$3,847

TOTAL \$4,039

Compliance History

Customer/Respondent/Owner-Operator: CN603122631 JMJ Organics Ltd Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105112874 JMJ ORGANIC MATERIALS HOUSTON Classification: AVERAGE BY DEFAULT Site Rating: 3.01
ID Number(s): MUNICIPAL SOLID WASTE NON ID NUMBER 100148
Location: 13610 REEVESTON RD, HOUSTON, TX, 77039 Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: June 13, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 13, 2003 to June 13, 2008

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

Name: Clinton Sims Phone: (512) 239-6933

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 06/05/2008 (640392)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JMJ ORGANICS LTD
RN105112874**

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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-0964-MSW-E

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

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

FINDINGS OF FACT

1. JMJ LTD owns and operates a wood recycling operation located at 13610 Reeveston Road in Houston, Harris County, Texas (the "Facility").
2. The Facility involves the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an inspection conducted on February 15, 2008, a TCEQ Houston Regional Office investigator documented that JMJ LTD:
 - a. Failed to maintain all records necessary to show training of staff in the inspection of incoming loads to ensure that they contain no more than 10% incidental non-recyclable waste. Specifically, JMJ LTD did not have staff training records at the time of the investigation;
 - b. Failed to have a setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feedstock or finished product.

Specifically, it was observed that mulch was stockpiled within 10 feet of the property boundary on the north side of the Facility; and

- c. Failed to establish and maintain financial assurance for the closure of a recycling facility that stores combustible materials (mulch and wood waste) outdoors. Specifically, JMJ LTD did not have financial assurance at the time of the investigation.
4. JMJ LTD received notice of the violations on or about July 10, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of JMJ Organics LTD" (the "EDPRP") in the TCEQ Chief Clerk's office on November 18, 2008.
6. By letter dated November 18, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served JMJ LTD with notice of the EDPRP. According to the return receipt "green card", JMJ LTD received notice of the EDPRP on November 20, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since JMJ LTD received notice of the EDPRP, provided by the Executive Director. JMJ LTD failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, JMJ LTD is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., JMJ LTD failed to maintain all records necessary to show training of staff in the inspection of incoming loads to ensure that they contain no more than 10% incidental non-recyclable waste, in violation of 30 TEX. ADMIN. CODE § 328.5(f)(2)(B).
3. As evidenced by Finding of Fact No. 3.b., JMJ LTD failed to have a setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feedstock or finished product, in violation of 30 TEX. ADMIN. CODE § 332.8(c)(1).

4. As evidenced by Finding of Fact No. 3.c., JMJ LTD failed to establish and maintain financial assurance for the closure of a recycling facility that stores combustible materials (mulch and wood waste) outdoors, in violation of 30 TEX. ADMIN. CODE § 328.5(d).
5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served JMJ LTD with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 7, JMJ LTD failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against JMJ LTD and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against JMJ LTD for violations of the Texas Water 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.
8. An administrative penalty in the amount of six thousand five hundred thirty-nine dollars (\$6,539.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. JMJ LTD is assessed an administrative penalty in the amount of six thousand five hundred thirty-nine dollars (\$6,539.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and JMJ LTD's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid

within 30 days after the effective date of this Order and shall be sent with the notation "Re: JMJ Organics LTD; Docket No. 2008-0964-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. JMJ LTD shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, JMJ LTD shall cease accepting and processing any municipal solid waste at the Facility until in compliance with this Order;
- b. Within 15 days after the effective date of this Order, JMJ LTD shall submit documentation to show training of staff in the inspection of incoming loads to ensure that they contain no more than 10% incidental non-recyclable waste, in accordance with 30 TEX. ADMIN. CODE § 328.5(f)(2)(B);
- c. Within 30 days after the effective date of this Order, JMJ LTD shall maintain a setback distance of at least 50 feet from all property boundaries to the edge of the area receiving, processing, or storing feedstock or finished product, in accordance with 30 TEX. ADMIN. CODE § 332.8(c)(1);
- d. Within 30 days after the effective date of this Order, JMJ LTD shall submit documentation that demonstrates acceptable financial assurance for the closure of the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.5(f)(3) to:

Financial Assurance Team, MC 184
Texas Commission on Environmental Quality
P.O. Box 13807
Austin, Texas 78711-3087

- e. In lieu of 2.b. through 2.d., within 30 days of this Order, JMJ LTD shall cease accepting waste and recyclable materials and remove all accumulated materials and dispose at an authorized facility;

- f. Respond completely and adequately, as determined by the TCEQ, to all letter requests for information within 30 days after the date of such letters, or by any other deadline specified in writing;
- g. Within 45 days of this Order, MJM LTD shall submit documentation for 2.b. and 2.c. to:

Municipal Solid Waste Permits Section, MC 124
Texas Commission on Environmental Quality
P.O. Box 13807
Austin, Texas 78711-3087

and

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

- h. Within 45 days after the effective date of this Order, MJM LTD shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with either Ordering Provision Nos. 2.a. through 2.d. or 2.e.

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

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

The certification shall be submitted to:

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

Austin, Texas 78711-3087

with a copy to:

Waste Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon MJM LTD. MJM LTD is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If MJM LTD fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, MJM LTD 's failure to comply is not a violation of this Order. MJM LTD shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. MJM LTD shall notify the Executive Director within seven days after MJM LTD 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 Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by MJM LTD shall be made in writing to the Executive Director. Extensions are not effective until MJM LTD 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 MJM LTD if the Executive Director determines that MJM LTD has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF LAURENCIA N. FASOYIRO

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of JMJ Organics LTD” (the “EDPRP”) was filed with the Office of the Chief Clerk on November 18, 2008.

I sent the EDPRP to JMJ Organics LTD at its last known address on November 18, 2008 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, JMJ LTD received notice of the EDPRP on November 20, 2008, as evidenced by the signature on the card.

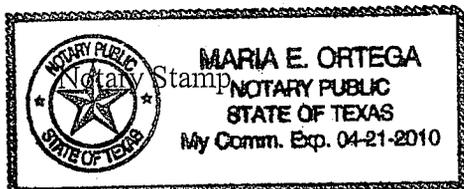
More than 20 days have elapsed since JMJ LTD received notice of the EDPRP. JMJ LTD failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Laurencia N. Fasoyiro
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 12 day of Feb, A.D., 2009.



Notary Signature