

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0111-MSW-E TCEQ ID: RN105370712 CASE NO.: 35237**  
**RESPONDENT NAME: JUAN MIGUEL MATA**

<b>ORDER TYPE:</b>		
<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	

<b>CASE TYPE:</b>		
<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

**SITE WHERE VIOLATION(S) OCCURRED:** FM 186 south of Whispering Tree Apartments, Carrizo Springs, Dimmit County.

**TYPE OF OPERATION:** Unauthorized used and scrap tire disposal service.

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** One complaint was received, alleging that the Respondent was illegally disposing of used and scrap tires on his property. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** The complainant has not expressed a desire to protest this action or speak at agenda. No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired June 15, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

- TCEQ Attorney:** Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
- TCEQ Enforcement Coordinator:** Mr. Clinton Sims, Waste Enforcement Section, MC 169, (512) 239-6933
- TCEQ Regional Contact:** Ms. Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 753-4052
- Respondent:** Mr. Juan Miguel Mata, HC 2 Box 96, Carrizo Springs, Texas 78834
- Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>  October 26, 2007</p> <p><b>Date of Investigation Relating to this Case:</b>  October 31, 2007</p> <p><b>Date of NOE Relating to this Case:</b>  December 7, 2007</p> <p><b>Background Facts:</b>  The EDPRP was filed June 3, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP. The EDFARP was filed February 9, 2009, 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 EDFARP on February 12, 2009, as evidenced by the signature card. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b>  The Respondent is not yet in compliance.</p> <p><b>MSW:</b></p> <ol style="list-style-type: none"> <li>Failed to insure that used or scrap tires or tire pieces are transported to an authorized scrap tire facility [30 TEX. ADMIN. CODE § 328.57(c)(3)].</li> <li>Failed to obtain from the Commission a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground [30 TEX. ADMIN. CODE § 328.60(a)].</li> <li>Failed to register with the Commission as a scrap tire transporter prior to transporting used or scrap tires [30 TEX. ADMIN. CODE § 328.57(c)(1)].</li> </ol>	<p><b>Total Assessed:</b> \$7,500</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$7,500</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><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>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, cease transporting used or scrap tires until registered with the Commission as a scrap tire transporter.</li> <li>Within 30 days, obtain a scrap tire storage site registration for the Site, or ensure that all tires are removed from the Site by a registered scrap tire transporter and taken to an authorized scrap tire storage facility</li> <li>Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.</li> </ol>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision November 6, 2007

<b>DATES</b>	Assigned	10-Dec-2007	Screening	16-Jan-2008	EPA Due	
	PCW	15-Apr-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Juan Miguel Mata		
Reg. Ent. Ref. No.	RN105370712		
Facility/Site Region	16-Laredo	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35237	No. of Violations	3
Docket No.	2008-0111-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Clinton Sims
Multi-Media		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* **\$7,500**

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

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

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

Notes: No change due to average performer classification.

**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.

Total EB Amounts **\$251**      0% Enhancement\* *Subtotal 6* **\$0**  
 Approx. Cost of Compliance **\$5,500**      \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$7,500**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **\$7,500**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$7,500**

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

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

Notes:

Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$7,500**

Screening Date 16-Jan-2008

Docket No. 2008-0111-MSW-E

PCW

Respondent Juan Miguel Mata

Policy Revision 2 (September 2002)

Case ID No. 35237

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105370712

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)

N/A

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%

<b>Screening Date</b> 16-Jan-2008	<b>Docket No.</b> 2008-0111-MSW-E	<b>PCW</b>
<b>Respondent</b> Juan Miguel Mata		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 35237		<small>PCW Revision November 6, 2007</small>
<b>Reg. Ent. Reference No.</b> RN105370712		
<b>Media [Statute]</b> Municipal Solid Waste		
<b>Enf. Coordinator</b> Clinton Sims		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 328.57(c)(3)	
<b>Violation Description</b>	Failed to ensure that used or scrap tires or tire pieces are transported to an authorized scrap tire facility by the transporter. Specifically, the Respondent transported approximately 2,000 scrap tires to the Site, which is not authorized for storage or disposal of used or scrap tires.	
	<b>Base Penalty</b>	\$10,000

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

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			
	Potential		x	
			<b>Percent</b>	25%

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
					<b>Percent</b>
					0%
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed protective levels.				

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 1      78 Number of violation days

<small>mark only one with an x</small>	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$2,500

One quarterly event is recommended from the October 31, 2007 investigation date to the January 16, 2008 screening date.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <span style="border: 1px solid black; padding: 2px;">\$182</span>	<b>Violation Final Penalty Total</b> <span style="border: 1px solid black; padding: 2px;">\$2,500</span>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <span style="border: 1px solid black; padding: 2px;">\$2,500</span>	

### Economic Benefit Worksheet

Respondent Juan Miguel Mata  
 Case ID No. 35237  
 Reg. Ent. Reference No. RN105370712  
 Media Municipal Solid Waste  
 Violation No. 1

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	\$4,000	31-Oct-2007	28-Sep-2008	0.9	\$182	n/a	\$182
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to transport the scrap tires to an authorized scrap tire facility. 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,000

TOTAL

\$182

<b>Screening Date</b> 16-Jan-2008	<b>Docket No.</b> 2008-0111-MSW-E	<b>PCW</b>
<b>Respondent</b> Juan Miguel Mata	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35237	<i>PCW Revision November 6, 2007</i>	
<b>Reg. Ent. Reference No.</b> RN105370712		
<b>Media [Statute]</b> Municipal Solid Waste		
<b>Enf. Coordinator</b> Clinton Sims		
<b>Violation Number</b> <input type="text" value="2"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 328.60(a)	
<b>Violation Description</b>	Failed to obtain a scrap tire registration for the site prior to storing more than 500 used or scrap tires on the ground. Specifically, approximately 2,000 scrap tires were observed being stored at the Site.	
<b>Base Penalty</b>		\$10,000

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

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

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
		x			
					<b>Percent</b> <input type="text" value="25%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
<b>Adjustment</b>					\$7,500

\$2,500

**Violation Events**

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="78"/>	Number of violation days												
<i>mark only one with an x</i> <table border="1" style="margin-left: 20px;"> <tr><td>daily</td><td style="border: 1px solid black;"></td></tr> <tr><td>monthly</td><td style="border: 1px solid black;"></td></tr> <tr><td>quarterly</td><td style="border: 1px solid black; text-align: center;">x</td></tr> <tr><td>semiannual</td><td style="border: 1px solid black;"></td></tr> <tr><td>annual</td><td style="border: 1px solid black;"></td></tr> <tr><td>single event</td><td style="border: 1px solid black;"></td></tr> </table>	daily		monthly		quarterly	x	semiannual		annual		single event		<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>	
daily														
monthly														
quarterly	x													
semiannual														
annual														
single event														

One quarterly event is recommended from the October 31, 2007 investigation date to the January 16, 2008 screening date.

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

Estimated EB Amount <input type="text" value="\$46"/>	Violation Final Penalty Total <input type="text" value="\$2,500"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,500"/>	

## Economic Benefit Worksheet

**Respondent** Juan Miguel Mata  
**Case ID No.** 35237  
**Reg. Ent. Reference No.** RN105370712  
**Media** Municipal Solid Waste  
**Violation No.** 2

<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
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	\$1,000	31-Oct-2007	28-Sep-2008	0.9	\$46	n/a	\$46
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the site as a scrap tire storage facility. 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				0.0	\$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

<b>Approx. Cost of Compliance</b>	\$1,000	<b>TOTAL</b>	\$46
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Screening Date 16-Jan-2008

Docket No. 2008-0111-MSW-E

PCW

Respondent Juan Miguel Mata

Policy Revision 2 (September 2002)

Case ID No. 35237

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105370712

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number

Rule Cite(s)

Violation Description

Failed to obtain a scrap tire transporter registration prior to conducting business. Specifically, the Respondent transported approximately 2,000 scrap tires to the Site without having a tire transporter registration.

Base Penalty

>> 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

>> Programmatic Matrix

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

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

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

Violation Base Penalty

One quarterly event is recommended from the October 31, 2007 investigation date to the January 16, 2008 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent** Juan Miguel Mata  
**Case ID No.** 35237  
**Reg. Ent. Reference No.** RN105370712  
**Media** Municipal Solid Waste  
**Violation No.** 3

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

**Item Cost**    **Date Required**    **Final Date**    **Yrs**    **Interest Saved**    **Onetime Costs**    **EB Amount**

**Item Description**    No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$500	31-Oct-2007	28-Sep-2008	0.9	\$23	n/a	\$23
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register as a scrap tire transporter. 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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$500

**TOTAL**

\$23

# Compliance History

Customer/Respondent/Owner-Operator: CN603264417 MATA, JUAN MIGUEL Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN105370712 DICKENS TIRE SITE Classification: AVERAGE Site Rating: 3.01  
ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER UNA455160074  
Location: FM 186, CARRIZO SPRINGS, TX, 78834  
TCEQ Region: REGION 16 - LAREDO  
Date Compliance History Prepared: January 04, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: January 04, 2003 to January 04, 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.)  
N/A
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JUAN MIGUEL MATA;  
RN105370712

§  
§  
§  
§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2008-0111-MSW-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH AND 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 Juan Miguel Mata ("Mr. Mata").

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

**FINDINGS OF FACT**

1. Mr. Mata operates an unauthorized used and scrap tire disposal service located at FM 186 south of Whispering Tree Apartments; Carrizo Springs, Dimmit County, Texas (the "Facility").
2. The Facility involves the management and/or disposal of used or scrap tires as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During an investigation conducted on October 31, 2007, a TCEQ Laredo Regional Office investigator documented that Mr. Mata:
  - a. Failed to insure that used or scrap tires or tire pieces are transported to an authorized scrap tire facility. Specifically, Mr. Mata transported approximately 2,000 scrap tires to an unauthorized site, specifically, the Facility, without the knowledge or permission of the property owner;
  - b. Failed to obtain from the Commission a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground. Specifically, approximately 2,000 scrap tires were being stored on the ground at the Facility; and

- c. Failed to register with the Commission as a scrap tire transporter prior to transporting used or scrap tires. Specifically, Mr. Mata transported approximately 2,000 scrap tires to the Facility without having a tire transporter registration.
4. Mr. Mata received notice of the violations on or about December 12, 2007.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Juan Miguel Mata" (the "EDPRP") in the TCEQ Chief Clerk's office on June 3, 2008.
6. By letter dated June 3, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Mata with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Mata received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Mata received notice of the EDPRP, provided by the Executive Director. Mr. Mata failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
8. The Executive Director filed the "Executive Director's First Amended 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 Juan Miguel Mata" (the "EDFARP") in the TCEQ Chief Clerk's office on February 9, 2009.
9. By letter dated February 9, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Mata with notice of the EDFARP. According to the return receipt "green card," Mr. Mata received notice of the EDFARP on February 12, 2009, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Mr. Mata received notice of the EDFARP, provided by the Executive Director. Mr. Mata failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Mata is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH AND SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Mata failed to insure that used or scrap tires or tire pieces are transported to an authorized scrap tire facility. Specifically, Mr. Mata transported approximately 2,000 scrap tires to an unauthorized site, specifically, the Facility, without the knowledge or permission of the property owner, in violation of 30 TEX. ADMIN. CODE § 328.57(c)(3).
3. As evidenced by Finding of Fact No. 3.b., Mr. Mata failed to obtain from the Commission a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground. Specifically, approximately 2,000 scrap tires were being stored on the ground at the Facility, in violation of 30 TEX. ADMIN. CODE § 328.60(a).
4. As evidenced by Finding of Fact No. 3.b., Mr. Mata failed to register with the Commission as a scrap tire transporter prior to transporting used or scrap tires. Specifically, Mr. Mata transported approximately 2,000 scrap tires to the Facility without having a tire transporter registration, in violation of 30 TEX. ADMIN. CODE § 328.57(c)(1).
5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Mata with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact Nos. 8 and 9, the Executive Director timely served Mr. Mata with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
7. As evidenced by Finding of Fact Nos. 7 and 10, Mr. Mata failed to file a timely answer to the EDPRP or EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Mata and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Mata for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

9. An administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Mr. Mata is assessed an administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00) for violations of the Texas Water Code, the Texas Health and Safety Code, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Mata'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: Juan Miguel Mata; Docket No. 2008-0111-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. Mr. Mata shall undertake the following technical requirements:
  - a. Immediately upon the effective date of the Commission Order, Mr. Mata shall cease transporting used or scrap tires until registered with the Commission as a scrap tire transporter pursuant to 30 TEX. ADMIN. CODE § 328.57(c)(1);
  - b. Within 30 days after the effective date of the Commission Order, Mr. Mata shall either obtain a scrap tire storage site registration for the Site pursuant to 30 TEX. ADMIN. CODE § 328.60(a), or ensure that all tires are removed from the Site by a registered scrap tire transporter and taken to an authorized scrap tire storage facility; and

- c. Within 45 days after the effective date of this Order, Mr. Mata shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 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.”

Mr. Mata shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. 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:

Rose Luna-Pirtle, Waste Section Manager  
Texas Commission on Environmental Quality  
Laredo Regional Office  
707 East Calton Road, Suite 304  
Laredo, Texas 78041-3887

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Mata. Mr. Mata 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 Mr. Mata 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, Mr. Mata's failure to comply is not a violation of this Order. Mr. Mata shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Mata shall notify the Executive Director within seven days after Mr. Mata becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

3. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Mata shall be made in writing to the Executive Director. Extensions are not effective until Mr. Mata receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Mata if the Executive Director determines that Mr. Mata has not complied with one or more of the terms or conditions in this Order.
5. 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.
6. 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

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For the Commission

**AFFIDAVIT OF BARHAM A. RICHARD**

STATE OF TEXAS           §  
                                      §  
COUNTY OF TRAVIS       §

“My name is Barham A. Richard. 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.

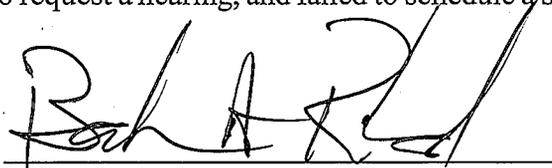
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Juan Miguel Mata” (the “EDPRP”) was filed with the Office of the Chief Clerk on June 3, 2008.

The EDPRP was mailed to Mr. Mata at his last known address on June 3, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that Mr. Mata received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

The “Executive Director’s First Amended 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 Juan Miguel Mata” (the “EDFARP”) was filed with the Office of the Chief Clerk on February 9, 2009.

The EDFARP was mailed to Mr. Mata at his last known address on February 9, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Mata received notice of the EDFARP on February 12, 2009, as evidenced by the signature on the card.

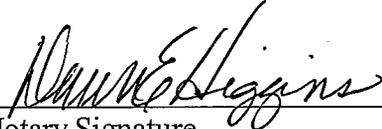
More than 20 days have elapsed since Mr. Mata received notice of the EDPRP. Mr. Mata failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Barham A. Richard, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 14<sup>th</sup> day of April, A.D., 2009.

  
\_\_\_\_\_  
Notary Signature

