

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0269-MSW-E TCEQ ID: RN104893631 CASE NO.: 35388**  
**RESPONDENT NAME: RED RIVER SERVICE CORPORATION**

<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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 36861 FM 2480, Los Fresnos, Cameron County</p> <p><b>TYPE OF OPERATION:</b> recycling facility; non-permitted municipal solid waste site</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 25, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Mr. John Shelton, Waste Enforcement Section, MC 128, (512) 239-2563  <b>TCEQ Regional Contact:</b> Mr. David A. Ramirez, Harlingen Regional Office, MC R-15, (956) 430-6048  <b>Respondent:</b> Mr. James A. Smith, President &amp; CEO, Red River Service Corporation, 350 N. St. Paul Street, Dallas, Texas 75201  <b>Respondent's Attorney:</b> Ms. Celina Romero, Attorney at Law, Clark, Thomas &amp; Winters, 300 West 6<sup>th</sup> St., 15<sup>th</sup> Floor, Austin, Texas 78701</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 Complaint Relating to this Case:</b>                      January 30, 2008</p> <p><b>Dates of Investigation Relating to this Case:</b>                      January 31 and February 1, 2008</p> <p><b>Date of NOE Relating to this Case:</b>                      March 5, 2008</p> <p><b>Background Facts:</b>                      The EDRP was filed March 7, 2008. The agreed order was signed June 81, 2008.</p> <p><b>Current Compliance Status:</b>                      Not yet in compliance</p> <p><b>MSW:</b></p> <p>1. Failed to maintain records and documentation concerning limitations on storage of recyclable materials, source separation of materials received, and incidental non-recyclable waste [30 TEX. ADMIN. CODE § 328.5(f)(1)].</p> <p>2. Failed to have a fire prevention and suppression plan [30 TEX. ADMIN. CODE § 328.5(h)].</p> <p>3. Failed to prevent the unauthorized storage of municipal solid waste, and failed to ensure that all municipal solid waste collected is unloaded at facilities authorized to accept the waste [30 TEX. ADMIN. CODE §§ 330.7(a) and 330.103(b)].</p>	<p><b>Total Assessed:</b> \$9,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b>                      \$1,025/\$7,975</p> <p>The Respondent paid \$1,025 of the administrative penalty. The remaining amount of \$7,975 shall be payable in 11 monthly payments of \$725 each.</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input 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> <p>1. Immediately:</p> <p>a. Cease the transportation and storage of bins containing municipal solid waste or obtain proper authorization from the Commission; and</p> <p>b. Begin maintaining records documenting each six month period the amount of material recycled or transferred equals at least 50% by weight or volume of the material accumulated at the beginning of the period.</p> <p>2. Within 15 days, submit a fire prevention and suppression plan to local fire officials.</p> <p>3. Within 30 days, submit certification of Ordering Provision No. 2.</p> <p>4. In lieu of Ordering Provisions 1.a. and 1.b., within 30 days, cease accepting waste and recyclable materials, remove all accumulated materials, and dispose of them at an authorized facility.</p> <p>5. Within 45 days, submit certification demonstrating compliance with either Ordering Provision Nos. 1.a. and 1.b. or 4.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

<b>DATES</b>	Assigned	11-Feb-2008	Screening	11-Feb-2008	EPA Due	
	PCW	11-Feb-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Red River Service Corporation		
Reg. Ent. Ref. No.	RN104893631		
Facility/Site Region	15-Harlingen	Major/Minor Source	Major

<b>CASE INFORMATION</b>				
Enf./Case ID No.	35388	No. of Violations	3	
Docket No.	2008-0269-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	John Shelton	
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**

### 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.

Notes

**Final Penalty Amount**

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

**DEFERRAL**  **Adjustment**

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

Notes

**PAYABLE PENALTY** **Final Assessed Penalty**

**Screening Date** 11-Feb-2008

**Docket No.** 2008-0269-MSW-E

**PCW**

**Respondent** Red River Service Corporation

Policy Revision 2 (September 2002)

**Case ID No.** 35388

PCW Revision January 29, 2008

**Reg. Ent. Reference No.** RN104893631

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** John Shelton

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

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

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

>> **Compliance History Summary**

**Compliance History Notes**

The Respondent has no record of any previous NOV's or Orders at this site within the past five years, and is classified as a high performer.

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

<b>Screening Date</b> 11-Feb-2008	<b>Docket No.</b> 2008-0269-MSW-E	<b>PCW</b>		
<b>Respondent</b> Red River Service Corporation	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 35388	<i>PCW Revision January 29, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN104893631				
<b>Media [Statute]</b> Municipal Solid Waste				
<b>Enf. Coordinator</b> John Shelton				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 328.5(f)(1)"/>			
<b>Violation Description</b>	Failed to maintain records and documentation concerning limitations on storage of recyclable materials, source separation of materials received, and incidental non-recyclable waste as documented during an investigation conducted on January 31, 2008. Specifically the Respondent could not provide the following: (1) records documenting during each six month period the amount of material recycled or transferred equals at least 50% by weight or volume of the material accumulated at the beginning of the period.			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsificator</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="25%"/>
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirement was not met."/>			
			<b>Adjustment</b>	<input type="text" value="\$7,500"/>
				<input type="text" value="\$2,500"/>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="11"/>		
<i>mark only one with an x</i>	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"/>			
				<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
<input type="text" value="One single event is recommended."/>				
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>		<input type="text" value="\$17"/>	<b>Violation Final Penalty Total</b>	
			<input type="text" value="\$2,250"/>	
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
			<input type="text" value="\$2,250"/>	

## Economic Benefit Worksheet

**Respondent** Red River Service Corporation  
**Case ID No.** 35388  
**Reg. Ent. Reference No.** RN104893631  
**Media** Municipal Solid Waste  
**Violation No.** 1

<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	\$500	31-Jan-2008	11-Oct-2008	0.7	\$17	n/a	\$17
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

Estimated cost to maintain records and documentation concerning limitations on storage of recyclable materials, source separation of materials received, and incidental non-recyclable waste. The Date Required is the investigation date and the Final Date is 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

\$500

**TOTAL**

\$17

<b>Screening Date</b> 11-Feb-2008	<b>Docket No.</b> 2008-0269-MSW-E	<b>PCW</b>
<b>Respondent</b> Red River Service Corporation	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35388	<i>PCW Revision January 29, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN104893631		
<b>Media [Statute]</b> Municipal Solid Waste		
<b>Enf. Coordinator</b> John Shelton		
<b>Violation Number</b> <input type="text" value="2"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 328.5(h)	
<b>Violation Description</b>	Failed to have a fire prevention and suppression plan, as documented during an investigation conducted January 31, 2008.	
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>

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

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="50%"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	<b>Percent</b> <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

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

Estimated EB Amount <input type="text" value="\$348"/>	Violation Final Penalty Total <input type="text" value="\$4,500"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$4,500"/>	

## Economic Benefit Worksheet

**Respondent** Red River Service Corporation  
**Case ID No.** 35388  
**Reg. Ent. Reference No.** RN104893631  
**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)	\$10,000	31-Jan-2008	11-Oct-2008	0.7	\$348	n/a	\$348

Notes for DELAYED costs

Estimated cost to draft a site specific fire prevention and suppression plan and make available to local fire prevention authorities. Date Required is the investigation date and Final Date is 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

\$10,000

**TOTAL**

\$348

<b>Screening Date</b> 11-Feb-2008	<b>Docket No.</b> 2008-0269-MSW-E	<b>PCW</b>		
<b>Respondent</b> Red River Service Corporation	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 35388	<i>PCW Revision January 29, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN104893631				
<b>Media [Statute]</b> Municipal Solid Waste				
<b>Enf. Coordinator</b> John Shelton				
<b>Violation Number</b>	3			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 330.7(a) and 330.103(b)			
<b>Violation Description</b>	Failed to prevent the unauthorized storage of municipal solid waste and failed to ensure that all municipal solid waste collected is unloaded at facilities authorized to accept the waste, as documented during an investigation conducted on January 31, 2008. Specifically the Respondent transferred approximately 225 bins, containing approximately two tons of household waste to their facility which is not authorized to accept the waste.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	x	<input type="text"/>
		<b>Percent</b>	25%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<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 levels that are protective of human health or environmental receptors as result of this violation.			
		<b>Adjustment</b>	\$7,500	
		\$2,500		
<b>Violation Events</b>				
Number of Violation Events		1	Number of violation days	
		11		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
		<b>Violation Base Penalty</b>	\$2,500	
One quarterly event is recommended from the investigation date of January 31, 2008 to the screening date of February 11, 2008.				
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
Estimated EB Amount		\$20	Violation Final Penalty Total	
			\$2,250	
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
			\$2,250	

## Economic Benefit Worksheet

**Respondent** Red River Service Corporation  
**Case ID No.** 35388  
**Reg. Ent. Reference No.** RN104893631  
**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
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)	\$586	31-Jan-2008	3-Oct-2008	0.7	\$20	n/a	\$20

Notes for DELAYED costs

Estimated cost to cease transportation of waste and remove and properly dispose of the approximately two tons of household waste at an authorized facility. The Date Required is the investigation date and the Final Date is 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

\$586

**TOTAL**

\$20

# Compliance History

Customer/Respondent/Owner-Operator: CN602988792 Red River Service Corporation Classification: HIGH Rating: 0.00  
Regulated Entity: RN104893631 RED RIVER SERVICE Classification: HIGH Site Rating: 0.00  
ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 100129  
Location: 36861 FM 2480, LOS FRESNOS, TX, 78566 Rating Date: September 01 07 Repeat Violator: NO  
TCEQ Region: REGION 15 - HARLINGEN  
Date Compliance History Prepared: February 11, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 11, 2003 to February 11, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: John Shelton Phone: 512 239-2563

## 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 02/21/2007 (541254)
  - 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  
RED RIVER SERVICE  
CORPORATION;  
RN104893631**

§  
§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0269-MSW-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 Red River Service Corporation ("Red River") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Red River, represented by Celina Romero of the law firm of Clark, Thomas & Winters, appear before the Commission and together stipulate that:

1. Red River owns and operates a registered recycling facility (Registration No. 100129) as well as a non-permitted municipal solid waste site located at 36861 FM 2480, Los Fresnos, Cameron 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 and TCEQ rules.
3. The Commission and Red River agree that the Commission has jurisdiction to enter this Agreed Order, and that Red River is subject to the Commission's jurisdiction.
4. Red River received notice of the violations alleged in Section II ("Allegations") on or about March 10, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Red River of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of nine thousand dollars (\$9,000.00) is assessed against Red River by the Commission in settlement of the violations alleged in Section II ("Allegations"). Red River has paid one thousand twenty-five dollars (\$1,025.00) of the administrative penalty. The remaining amount of seven thousand nine hundred seventy-five dollars (\$7,975.00) of the administrative penalty shall be payable in eleven monthly payments of seven hundred twenty-five dollars (\$725.00) each. The first 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 Red River 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 Red River to meet the payment schedule of this Agreed Order constitutes the failure of Red River 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 Red River 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 Red River 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

Red River is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 328.5(f)(1) by failing to maintain records and documentation concerning limitations on storage of recyclable materials, source separation of materials received, and incidental non-recyclable waste. Specifically, Red River could not provide records documenting during each six month period the amount of material recycled or transferred equals at least 50% by weight or volume of the material accumulated at the beginning of the period as documented during an inspection conducted on January 31 and February 1, 2008.
2. 30 TEX. ADMIN. CODE § 328.5(h) by failing to have a fire prevention and suppression plan as documented during an inspection conducted on January 31 and February 1, 2008.
3. 30 TEX. ADMIN. CODE §§ 330.7(a) and 330.103(b) by failing to prevent the unauthorized storage of municipal solid waste, and failing to ensure that all municipal solid waste collected is unloaded at facilities authorized to accept the waste. Specifically, Red River transferred approximately 225 bins containing household waste to their Facility which is not authorized to accept waste as documented during an inspection conducted on January 31 and February 1, 2008.

## III. DENIALS

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

## IV. ORDER

1. It is, therefore, ordered by the TCEQ that Red River pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and Red River'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: Red River Service Corporation, Docket No. 2008-0269-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. Red River shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order Red River shall:
    - i. Cease the transportation and storage of bins containing municipal solid waste or obtain proper authorization from the Commission, in accordance with 30 TEX. ADMIN. CODE §§ 330.7(a) and 330.103(b); and
    - ii. Begin maintaining records documenting each six month period the amount of material recycled or transferred equals at least 50% by weight or volume of the material accumulated at the beginning of the period in accordance with 30 TEX. ADMIN. CODE § 328.5(f).
  - b. Within 15 days after the effective date of this Agreed Order Red River shall submit a fire prevention and suppression plan to local fire officials, in accordance with 30 TEX. ADMIN. CODE § 328.5(h).
  - c. Within 30 days after the effective date of this Agreed Order Red River shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a.i. and 2.b. as described in Ordering Provision No. 2.f. below.
  - d. In lieu of Ordering Provisions 2.a.ii. and 2.b., within 30 days after the effective date of the Agreed Order Red River shall cease accepting waste and recyclable materials, remove all accumulated materials and dispose of them at an authorized facility.
  - e. Within 45 days after the effective date of this Agreed Order Red River shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with either Ordering Provision Nos. 2.a.ii. and 2.b. or 2.d. as described in Ordering Provision No. 2.f. below.
  - f. The certification required by Ordering Provision Nos. 2.c. and 2.e. 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.”

Red River shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.e. to:

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

and

Jaime A. Garza, Waste Section Manager  
Texas Commission on Environmental Quality  
1804 West Jefferson Ave.  
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon Red River. Red River 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 Red River 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, Red River's failure to comply is not a violation of this Agreed Order. Red River shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Red River shall notify the Executive Director within seven days after Red River 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 Red River shall be made

in writing to the Executive Director. Extensions are not effective until Red River 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 Red River 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 Red River, or three days after the date on which the Commission mails notice of the Order to Red River, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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



\_\_\_\_\_  
For the Executive Director

8/22/08

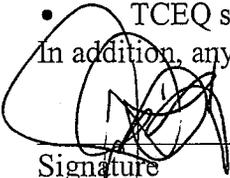
\_\_\_\_\_  
Date

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

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

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

  
\_\_\_\_\_  
Signature

James A. Smith

\_\_\_\_\_  
Name (Printed or typed)

Authorized representative of  
Red River Service Corporation

6-18-08  
\_\_\_\_\_  
Date

President & CEO

\_\_\_\_\_  
Title