

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0247-MLM-E **TCEQ ID:** RN105679336 and RN103158689 **CASE NO.:** 37297

RESPONDENT NAME: ROAD MASTERS I G LLC

ORDER TYPE:		
<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	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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: Flat Express #1, 7262 Doniphan Drive, Canutillo, El Paso County (Facility No. 1); ROAD MASTERS, 730 South Santa Fe Street, El Paso, El Paso County (Facility No. 2)</p> <p>TYPE OF OPERATION: Unauthorized scrap tire storage and processing</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 April 26, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Clinton Sims, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6933; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Victor Garcia, Owner, ROAD MASTERS I G LLC, 7282 Doniphan Drive, Canutillo, Texas 79835 Mr. Isaac Garcia, Manager, ROAD MASTERS I G LLC, 7282 Doniphan Drive, Canutillo, Texas 79835 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: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 5, 2008</p> <p>Date of NOE Relating to this Case: February 2, 2009</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to obtain a scrap tire storage site registration for the Facility No. 1 prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in containers and prior to the commencement of a processing scrap tire operation. Specifically, approximately 14,000 used and scrap tires were observed on the ground and approximately 8,300 used and scrap tires were observed in 12 trailers at the site [30 TEX. ADMIN. CODE §§ 328.60(a) and 328.63(c)].</p> <p>2) Failure to use manifests, work orders, invoices or other records to document the removal and management of all scrap tires generated on-site and failed to properly sort, mark, classify, and arrange good used tires at Facility No. 1. Specifically, scrap tires were removed and disposed of without any recordkeeping. In addition, the Facility had approximately 10,000 good used tires with different sizes and treads intermingled [30 TEX. ADMIN. CODE §§ 328.56(c), and 328.56(d)(3), 328.58(a) and (f)].</p> <p>3) Failure to control dust by the appropriate application of asphalt, water, or suitable oil or chemicals on any vehicle parking surface with more than five parking spaces at Facility No. 1. Specifically, gravel was being used as dust</p>	<p>Total Assessed: \$18,350</p> <p>Total Deferred: \$3,670 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$680 (remaining \$14,000 due in 35 monthly payments of \$400 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>RN105679336 Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>RN103158689 Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease operation of a scrap tire storage and processing facility at Facility No. 1 until properly authorized;</p> <p>b. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Remove from Facility No. 1 all used or scrap tires in excess of 500 on the ground or 2,000 in lockable containers to an authorized scrap tire storage, processing or disposal facility;</p> <p>ii. Develop and implement procedures to ensure use of manifests, work orders, invoices or other records to document the removal and management of all scrap tires generated on-site at the Facilities;</p> <p>iii. Properly sort, mark, classify, and arrange all good used tires for sale to the consumer at Facility No. 1;</p> <p>iv. Develop and implement procedures to ensure to obtain five-part manifests from registered transporters for scrap tires or scrap tire pieces hauled off from the Facilities and to maintain original manifests or other documentation used to support activities related to the accumulation;</p> <p>v. Limit the parking areas to less than five spaces at Facility No. 1 or comply with the appropriate dust control methods;</p> <p>vi. Develop and implement procedures at Facility No. 2 to ensure that all scrap tires or scrap tire pieces are transported by a registered transporter to an authorized scrap tire facility;</p> <p>c. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering</p>

<p>control at the Facility [30 TEX. ADMIN. CODE § 111.149(a) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failure as a generator and tire transporter to ensure that all scrap tires or scrap tire pieces are transported by a registered transporter to an authorized facility and failed to use manifests, work orders, invoices or other records to document the removal and management of all scrap tires generated on-site at Facility No. 2. Specifically, scrap tires were transported to and shredded at an unauthorized facility and the Respondent failed to maintain records of the removal and disposal of scrap tires [30 TEX. ADMIN. CODE §§ 328.56(b) and (c) and 328.57(c)(3)].</p> <p>5) Failure as a generator to obtain a five-part manifest from the registered transporter for the scrap tires or scrap tire pieces hauled off from the place of business and failed to maintain original manifests or other documentation used to support activities related to the accumulation and shipment of used or scrap tires or scrap tire pieces for a period of three years at Facility No. 2. Additionally, failed as a tire transporter to maintain records using a manifest system and failed to retain all manifests, work orders and invoices showing the collection and disposition of all used or scrap tires and tires pieces for a period of at least five years [30 TEX. ADMIN. CODE §§ 328.58(a) and (f) and 328.57(c)(2) and (d)].</p>		Provisions. a.i. through b.vi.
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Additional ID No(s): Tire Transporter ID 26828



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Feb-2009	Screening	3-Feb-2009	EPA Due	
	PCW	20-Feb-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	ROAD MASTERS I G LLC (Facility No. 1)		
Reg. Ent. Ref. No.	RN105679336		
Facility/Site Region	6-El Paso	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	37297	No. of Violations	3
Docket No.	2009-0247-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Air	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** \$11,000

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 enhancement 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 \$960
Approx. Cost of Compliance \$12,500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$11,000

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$11,000

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$11,000

DEFERRAL 20.0% Reduction **Adjustment** -\$2,200

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$8,800

Screening Date 3-Feb-2009

Docket No. 2009-0247-MLM-E

PCW

Respondent ROAD MASTERS I G LLC (Facility No. 1)

Policy Revision 2 (September 2002)

Case ID No. 37297

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105679336

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 <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 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 enhancement due to average performer classification.

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

Screening Date 3-Feb-2009	Docket No. 2009-0247-MLM-E	PCW			
Respondent ROAD MASTERS I G LLC (Facility No. 1)		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 37297		<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN105679336					
Media [Statute] Municipal Solid Waste					
Enf. Coordinator Clinton Sims					
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code §§ 328.60(a) and 328.63(c)				
Violation Description	Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in containers and prior to the commencement of a processing scrap tire operation, as documented during a investigation conducted on December 5, 2008. Specifically, approximately 14,000 used and scrap tires were observed on the ground and approximately 8,300 used and scrap tires were observed in 12 trailers at the Facility.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	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"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="25%"/>	
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				\$7,500	
				\$2,500	
Violation Events					
Number of Violation Events		<input type="text" value="2"/>	Number of violation days		
		<input type="text" value="60"/>			
<i>mark only one with an x</i>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input checked="" type="text" value="x"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
single event	<input type="text"/>				
				Violation Base Penalty <input type="text" value="\$5,000"/>	
Two monthly events are recommended from the December 5, 2008 Investigation date to the February 3, 2009 screening date.					
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction		
		<input type="text" value="0.0%"/>	\$0		
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	<input checked="" type="text" value="x"/>	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal				\$5,000	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$744"/>	Violation Final Penalty Total <input type="text" value="\$5,000"/>		
This violation Final Assessed Penalty (adjusted for limits)				\$5,000	

Economic Benefit Worksheet

Respondent ROAD MASTERS I G LLC (Facility No. 1)
Case ID No. 37297
Reg. Ent. Reference No. RN105679336
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			0.00	\$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	\$10,000	5-Dec-2008	1-Jun-2010	1.49	\$744	\$744
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to obtain a scrap tire storage registration for the 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			0.00	\$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 **\$10,000** **TOTAL** **\$744**

Screening Date 3-Feb-2009	Docket No. 2009-0247-MLM-E	PCW	
Respondent ROAD MASTERS I G LLC (Facility No. 1)	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37297	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN105679336			
Media [Statute] Municipal Solid Waste			
Enf. Coordinator Clinton Sims			
Violation Number <input type="text" value="2"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §§ 328.56(c), 328.56(d)(3), and 328.58(a) and (f)"/>		
Violation Description	<input type="text" value="Failed to use manifests, work orders, invoices or other records to document the removal and management of all scrap tires generated on-site and failed to properly sort, mark, classify, and arrange good used tires. Specifically, scrap tires were removed and disposed of without any recordkeeping. In addition, the Facility had approximately 10,000 good used tires with different sizes and treads intermingled."/>		
	Base Penalty	<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	Percent <input type="text" value="0%"/>
	Potential	<input type="text"/>	
>> Programmatic Matrix			
	Falsification	Major Moderate Minor	
	<input type="text"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Percent <input type="text" value="25%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>		
	Adjustment	<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>	
Violation Events			
	Number of Violation Events	<input type="text" value="2"/>	Number of violation days
		<input type="text" value="60"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$5,000"/>
	weekly	<input type="text"/>	
	monthly	<input checked="" type="checkbox"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
	<input type="text" value="Two monthly events are recommended from the December 5, 2008 investigation date to the February 3, 2009 screening date."/>		
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>
		<small>Before NOV NOV to EDRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
	Violation Subtotal	<input type="text" value="\$5,000"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$112"/>	Violation Final Penalty Total	<input type="text" value="\$5,000"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$5,000"/>

Economic Benefit Worksheet

Respondent ROAD MASTERS I G LLC (Facility No. 1)

Case ID No. 37297

Reg. Ent. Reference No. RN105679336

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				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	5-Dec-2008	1-Jun-2010	1.49	\$74	n/a	\$74
Training/Sampling	\$500	5-Dec-2008	1-Jun-2010	1.49	\$37	n/a	\$37
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 manifests, work orders, invoices, and other records to document the removal and management of all scrap tires generated on-site and estimated cost to train staff to properly sort, mark, classify, and arrange all good used tires for consumer sales. 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

\$1,500

TOTAL

\$112

Screening Date 3-Feb-2009	Docket No. 2009-0247-MLM-E	PCW		
Respondent ROAD MASTERS I G LLC (Facility No. 1)	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 37297	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN105679336				
Media [Statute] Municipal Solid Waste				
Enf. Coordinator Clinton Sims				
Violation Number 3				
Rule Cite(s)	30 Tex. Admin. Code § 111.149(a) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to control dust by the appropriate application of asphalt, water, or suitable oil or chemicals on any vehicle parking surface with more than five parking spaces, as documented during an investigation conducted on December 5, 2008. Specifically, gravel was being used as dust control.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
				Percent 10%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent 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		\$9,000		
		\$1,000		
Violation Events				
Number of Violation Events		1	Number of violation days	
		60		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	weekly	<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 \$1,000		
One single event is recommended based on the December 5, 2008 investigation date.				
Good Faith Efforts to Comply		0.0% Reduction		\$0
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>			
Ordinary	<input type="checkbox"/>			
N/A	<input checked="" type="checkbox"/>	(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 \$104		Violation Final Penalty Total \$1,000		
		This violation Final Assessed Penalty (adjusted for limits) \$1,000		

Economic Benefit Worksheet

Respondent ROAD MASTERS I G LLC (Facility No. 1)
Case ID No. 37297
Reg. Ent. Reference No. RN105679336
Media Municipal Solid Waste
Violation No. 3

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,000	5-Dec-2008	1-Jun-2010	1.49	\$5	\$99	\$104
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 Estimated cost to provide adequate dust control for vehicle parking spaces at the 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				0.00	\$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 **\$1,000** **TOTAL** **\$104**

Compliance History Report

Customer/Respondent/Owner-Operator: CN603461385 Road Masters I G LLC Classification: Rating:
Regulated Entity: RN105679336 FLAT EXPRESS 1 Classification: Site Rating:
ID Number(s):
Location: 7262 DONIPHAN DR, CANUTILLO, TX, 79835
TCEQ Region: REGION 06 - EL PASO
Date Compliance History Prepared: March 25, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 25, 2004 to March 25, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Clinton Sims Phone: 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
- 6.

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.)
N/A
- 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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Feb-2009	Screening	3-Feb-2009	EPA Due	
	PCW	20-Feb-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	ROAD MASTERS I G LLC (Facility No. 2)		
Reg. Ent. Ref. No.	RN103158689		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37297	No. of Violations	2
Docket No.	2009-0247-MLM-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 \$7,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5.0% Enhancement Subtotals 2, 3, & 7 \$350

Notes: The Respondent received enhancement for one NOV with same or similar violations.

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 \$149
Approx. Cost of Compliance \$2,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$7,350

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$7,350

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$7,350

DEFERRAL 20.0% Reduction Adjustment -\$1,470

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY \$5,880

Screening Date 3-Feb-2009

Docket No. 2009-0247-MLM-E

PCW

Respondent ROAD MASTERS I G LLC (Facility No. 2)

Policy Revision 2 (September 2002)

Case ID No. 37297

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103158689

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)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 5%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The Respondent received enhancement for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 3-Feb-2009	Docket No. 2009-0247-MLM-E	PCW		
Respondent ROAD MASTERS I G LLC (Facility No. 2)		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37297		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN103158689				
Media [Statute] Municipal Solid Waste				
Enf. Coordinator Clinton Sims				
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code §§ 328.56(b) and (c) and 328.57(c)(3)			
Violation Description	Failed as a scrap tire generator and transporter to ensure that all scrap tires or scrap tire pieces are transported by a registered transporter to an authorized facility and failed to use manifests, work orders, invoices or other records to document the removal and management of all scrap tires generated on-site, as documented during an investigation conducted on December 5, 2008. Specifically, scrap tires were transported to an unauthorized facility and the Respondent failed to maintain records of the removal and disposal of scrap tires.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Percent		25%		
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Percent		0%		
Matrix Notes	Human health or the environment has been exposed to a significant amount of pollutants which do not exceed protective levels.			
Adjustment		\$7,500		
		\$2,600		
Violation Events				
Number of Violation Events		2	60	
		Number of violation days		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty	
	weekly	<input type="checkbox"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
single event	<input type="checkbox"/>			
Two monthly events are recommended from the December 5, 2008 investigation date to the February 3, 2009 screening date.			\$5,000	
Good Faith Efforts to Comply		0.0% Reduction	\$0	
	Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal		\$5,000		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$74	Violation Final Penalty Total	
		\$5,250		
		This violation Final Assessed Penalty (adjusted for limits)		
		\$5,250		

Economic Benefit Worksheet

Respondent ROAD MASTERS I G LLC (Facility No. 2)
Case ID No. 37297
Reg. Ent. Reference No. RN103158689
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			0.00	\$0	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0	\$0
Land			0.00	\$0	n/a	n/a	\$0
Record Keeping System	\$1,000	5-Dec-2008	1-Jun-2010	1.49	\$74	n/a	\$74
Training/Sampling			0.00	\$0	n/a	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	n/a	\$0
Permit Costs			0.00	\$0	n/a	n/a	\$0
Other (as needed)			0.00	\$0	n/a	n/a	\$0

Notes for DELAYED costs
 Estimated cost to implement procedures to ensure that all scrap tires are transported to a registered facility and to maintain manifests, work orders, invoices, or other records to document the removal and management of scrap tires generated on-site. 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	\$0
Personnel			0.00	\$0	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000 **TOTAL** \$74

Screening Date 3-Feb-2009	Docket No. 2009-0247-MLM-E	PCW	
Respondent ROAD MASTERS I G LLC (Facility No. 2)	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37297	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN103158689			
Media [Statute] Municipal Solid Waste			
Enf. Coordinator Clinton Sims			
Violation Number 2			
Rule Cite(s)	30 Tex. Admin. Code §§ 328.58(a) and (f) and 328.57(c)(2) and (d)		
Violation Description	Failed as a generator to obtain a five-part manifest from the registered transporter for the scrap tires or scrap tire pieces hauled off from the business location and failed to maintain original manifests or other documentation used to support activities related to the accumulation and shipment of used or scrap tires or scrap tire pieces for a period of three years. Additionally, failed as a tire transporter to maintain records using a manifest system and failed to retain all manifests, work orders and invoices showing the collection and disposition of all used or scrap tires and tires pieces for a period of at least five years.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Release			
Actual			
Potential			
			Percent 0%
>> Programmatic Matrix			
			Percent 10%
Matrix Notes	100% of the rule requirement was not met.		
Adjustment			\$9,000
			\$1,000
Violation Events			
Number of Violation Events	2	60	Number of violation days
<i>mark only one with an x</i>	daily		
	weekly		
	monthly	x	
	quarterly		
	semiannual		
	annual		
	single event		
Violation Base Penalty			\$2,000
Two monthly events are recommended from the December 5, 2008 investigation date to the February 3, 2009 screening date.			
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			\$2,000
Economic Benefit (EB) for this violation			Statutory Limit Test
Estimated EB Amount	\$74	Violation Final Penalty Total	\$2,100
This violation Final Assessed Penalty (adjusted for limits)			\$2,100

Economic Benefit Worksheet

Respondent ROAD MASTERS I G LLC (Facility No. 2)
Case ID No. 37297
Reg. Ent. Reference No. RN103158689
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Item Description: No commas or \$

Delayed Costs

Equipment				0.00	\$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	\$1,000	5-Dec-2008	1-Jun-2010	1.49	\$74	n/a	\$74
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 obtain and maintain five-part manifests and other documentation related to the accumulation and shipment of scrap tires. 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

\$1,000

TOTAL

\$74

Compliance History Report

Customer/Respondent/Owner-Operator: CN603461385 Road Masters I G LLC Classification: Rating:
Regulated Entity: RN103158689 ROAD MASTERS Classification: Site Rating:
ID Number(s): TIRES REGISTRATION 26828
Location: 730 S SANTA FE ST, EL PASO, TX, 79901
TCEQ Region: REGION 06 - EL PASO
Date Compliance History Prepared: March 25, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 25, 2004 to March 25, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Clinton Sims Phone: 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? Yes
3. If Yes, who is the current owner?
Road Masters I G LLC
4. If Yes, who was/were the prior owner(s)?
Road Masters
5. When did the change(s) in ownership occur?
10/01/2007
- 6.

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- | | | |
|---|------------|----------|
| 1 | 01/29/2008 | (614772) |
| 2 | 05/29/2008 | (640907) |
| 3 | 01/30/2009 | (725105) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 01/28/2008 (614772)
N/A

Self NO Classification: Moderate
Citation: 30 TAC Chapter 328, SubChapter F 328.57(c)(3)
Description: Failure to ensure that scrap tires were transported to an authorized scrap tire facility. Twenty-four shipments of scrap tires were delivered to the Angie Crook Tire site (unauthorized disposal site) between July 30, 2007 and September 25, 2007.

Self NO

Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.57(d)

Description: Failure to make available upon request the manifest for the scrap tire attempted load delivery to Angie Crook Tire Site on September 28, 2007.

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
ROAD MASTERS I G LLC
RN105679336
RN103158689

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§
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§
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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0247-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ROAD MASTERS I G LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY Code chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an unauthorized scrap tire storage and processing facility at 7262 Doniphan Drive in Canutillo, El Paso County, Texas ("Facility No. 1") and a used and scrap tire transporting business at 730 South Santa Fe Street in El Paso, El Paso County, Texas ("Facility No. 2"), collectively referred to as the Facilities ("the Facilities").
2. The Facilities consist of one or more sources as defined in TEX HEALTH & SAFETY CODE § 382.003(12) and involve or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 7, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eighteen Thousand Three Hundred Fifty Dollars (\$18,350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Eighty Dollars (\$680) of the administrative penalty and Three Thousand Six Hundred Seventy Dollars (\$3,670) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Fourteen Thousand Dollars (\$14,000) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Dollars (\$400) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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

As owner and operator of the Facilities, the Respondent is alleged to have:

1. Failed to obtain a scrap tire storage site registration for Facility No. 1 prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in containers and prior to the commencement of a processing scrap tire operation, in violation of 30 TEX. ADMIN. CODE §§ 328.60(a) and 328.63(c), as documented during a investigation conducted on December 5, 2008.

Specifically, approximately 14,000 used and scrap tires were observed on the ground and approximately 8,300 used and scrap tires were observed in 12 trailers at the site.

2. Failed to use manifests, work orders, invoices or other records to document the removal and management of all scrap tires generated on-site and failed to properly sort, mark, classify, and arrange good used tires at Facility No. 1, in violation of 30 TEX. ADMIN. CODE §§ 328.56(c), and 328.56(d)(3), and 328.58(a) and (f), as documented during an investigation conducted on December 5, 2008. Specifically, scrap tires were removed and disposed of without any recordkeeping. In addition, the Facility had approximately 10,000 good used tires with different sizes and treads intermingled.
3. Failed to control dust by the appropriate application of asphalt, water, or suitable oil or chemicals on any vehicle parking surface with more than five parking spaces at Facility No. 1, in violation of 30 TEX. ADMIN. CODE § 111.149(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on December 5, 2008. Specifically, gravel was being used as dust control at the Facility.
4. Failed as a generator and tire transporter to ensure that all scrap tires or scrap tire pieces are transported by a registered transporter to an authorized facility and failed to use manifests, work orders, invoices or other records to document the removal and management of all scrap tires generated on-site at Facility No. 2, in violation of 30 TEX. ADMIN. CODE §§ 328.56(b) and (c) and 328.57(c)(3), as documented during an investigation conducted on December 5, 2008. Specifically, scrap tires were transported to and shredded at an unauthorized facility and the Respondent failed to maintain records of the removal and disposal of scrap tires.
5. Failed as a generator to obtain a five-part manifest from the registered transporter for the scrap tires or scrap tire pieces hauled off from the place of business and failed to maintain original manifests or other documentation used to support activities related to the accumulation and shipment of used or scrap tires or scrap tire pieces for a period of three years at Facility No. 2. Additionally, failed as a tire transporter to maintain records using a manifest system and failed to retain all manifests, work orders and invoices showing the collection and disposition of all used or scrap tires and tires pieces for a period of at least five years, in violation of 30 TEX. ADMIN. CODE §§ 328.58(a) and (f) and 328.57(c)(2) and (d), as documented during an investigation conducted on December 5, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: ROAD MASTERS I G LLC, Docket No. 2009-0247-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease operation of a scrap tire storage and processing facility at Facility No. 1 until properly authorized, in accordance with 30 TEX. ADMIN. CODE § 328.60(a);
 - b. Within 60 days after the effective date of this Agreed Order:
 - i. Remove from Facility No. 1 all used or scrap tires in excess of 500 on the ground or 2,000 in lockable containers to an authorized scrap tire storage, processing or disposal facility, in accordance with 30 TEX. ADMIN. CODE § 328.56;
 - ii. Develop and implement procedures to ensure use of manifests, work orders, invoices or other records to document the removal and management of all scrap tires generated on-site at the Facilities, in accordance with 30 TEX. ADMIN. CODE § 328.56(c);
 - iii. Properly sort, mark, classify, and arrange all good used tires for sale to the consumer at Facility No. 1, in accordance with TEX. ADMIN. CODE § 328.56(d)(3);
 - iv. Develop and implement procedures to ensure to obtain five-part manifests from registered transporters for scrap tires or scrap tire pieces hauled off from the Facilities and to maintain original manifests or other documentation used to support activities related to the accumulation, in accordance with 30 TEX. ADMIN. CODE § 328.58(a);
 - v. Limit the parking areas to less than five spaces at Facility No. 1 or comply with the appropriate dust control methods, in accordance with 30 TEX. ADMIN. CODE § 111.149(a);
 - vi. Develop and implement procedures at Facility No. 2 to ensure that all scrap tires or scrap tire pieces are transported by a registered transporter to an authorized scrap tire facility, in accordance with 30 TEX. ADMIN. CODE § 328.56 and 328.57;

- c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.vi.

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 fines 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
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facilities operations referenced in this Agreed Order.
4. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent

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 the Respondent 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Redlin
For the Executive Director

5/3/2010
Date

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

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

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

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

Isaac Garcia
Signature

02/15/10
Date

Isaac Garcia
Name (Printed or typed)
Authorized Representative of
ROAD MASTERS I G LLC

Manager
Title

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

