

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2010-0080-MLM-E TCEQ ID: RN105806236 CASE NO.: 38992**  
**RESPONDENT NAME: Asuncion Manriquez Galera dba Discount Waste**

|   |  |  |
|---|--|--|
| <b>ORDER TYPE:</b>  |  |  |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER   | <input type="checkbox"/> FINDINGS AGREED ORDER                         | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING       |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER   | <input type="checkbox"/> SHUTDOWN ORDER                                | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER  | <input type="checkbox"/> EMERGENCY ORDER                               |  |
| <b>CASE TYPE:</b>   |  |  |
| <input type="checkbox"/> AIR  | <input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE              |
| <input type="checkbox"/> PUBLIC WATER SUPPLY  | <input type="checkbox"/> PETROLEUM STORAGE TANKS                       | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION                  |
| <input 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 checked="" type="checkbox"/> USED OIL                         |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Discount Waste, 15506 Lee Road, Humble, Harris County</p> <p><b>TYPE OF OPERATION:</b> Waste transfer facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on August 26, 2009 alleging that the Respondent was processing and storing municipal solid waste ("MSW"), including construction and demolition waste, without TCEQ authorization. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 12, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Clinton Sims, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6933; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Mr. Asuncion Manriquez Galera, Owner, Discount Waste, 15506 Lee Road, Humble, Texas 77396<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |  |  |

| VIOLATION SUMMARY CHART:   |   |  |
|--|---|--|
| VIOLATION INFORMATION  | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
| <p><b>Type of Investigation:</b><br/> <input checked="" type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> August 26, 2009</p> <p><b>Date of Investigation Relating to this Case:</b> September 17 through November 18, 2009</p> <p><b>Date of NOE Relating to this Case:</b> December 2, 2009</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to prevent the unauthorized disposal, storage and processing of MSW. Specifically, approximately 800 cubic yards of MSW including construction and demolition waste, mixed waste, cardboard waste, plastic waste, paper waste, and wood waste were disposed of on the ground [30 TEX. ADMIN. CODE § 330.15(c)].</p> <p>2) Failure to prevent the unauthorized discharge of waste. Specifically, three five-gallon buckets containing waste oil and two 55-gallon drums containing waste oil were not properly sealed and were leaking. Also, four oil stains were observed at the Facility [30 TEX. ADMIN. CODE § 324.6 and 40 CODE OF FEDERAL REGULATIONS § 279.22(d)].</p> | <p><b>Total Assessed:</b> \$1,250</p> <p><b>Total Deferred:</b> \$250<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,000</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease the unauthorized disposal, storage, and processing of MSW at the Facility.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Remove all wastes and dispose of at an authorized facility; and</p> <p>ii. Remove all contaminated soils from the Site and dispose of at an authorized facility.</p> <p>c. Within 45 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 Provisions a. through b.ii.</p> |

Additional ID No(s): 455120137



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

|       |          |             |           |            |         |  |
|-------|----------|-------------|-----------|------------|---------|--|
| DATES | Assigned | 21-Dec-2009 | Screening | 7-Jan-2010 | EPA Due |  |
|       | PCW      | 14-Jan-2010 |           |            |         |  |

|  |  |
|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |
| Respondent                             | Asuncion Manriquez Galera dba Discount Waste |
| Reg. Ent. Ref. No.                     | RN105806236                                  |
| Facility/Site Region                   | 12-Houston                                   |
| Major/Minor Source                     | Minor  |

|                                 |                       |                       |                    |
|---------------------------------|-----------------------|-----------------------|--------------------|
| <b>CASE INFORMATION</b>         |                       |                       |                    |
| Enf./Case ID No.                | 38992                 | No. of Violations     | 1                  |
| Docket No.                      | 2010-0080-MLM-E       | Order Type            | 1660               |
| Media Program(s)                | Used Oil              | Government/Non-Profit | No                 |
| Multi-Media                     | Municipal Solid Waste | Enf. Coordinator      | Clinton Sims       |
|                                 |                       | EC's Team             | Enforcement Team 6 |
| Admin. Penalty \$ Limit Minimum | \$0                   | Maximum               | \$2,500            |

## Penalty Calculation Section

|   |                   |       |
|---|-------------------|-------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$250 |
|---|-------------------|-------|

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

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

|                           |                  |                                |     |
|---------------------------|------------------|--------------------------------|-----|
| <b>Compliance History</b> | 0.0% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | \$0 |
|---------------------------|------------------|--------------------------------|-----|

Notes: No adjustments due to compliance history.

|                    |    |                  |                   |     |
|--------------------|----|------------------|-------------------|-----|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |     |
|--|-------------------|-----|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | \$0 |
|--|-------------------|-----|

|                            |                   |                                   |     |
|----------------------------|-------------------|-----------------------------------|-----|
| <b>Economic Benefit</b>    | 0.0% Enhancement* | <b>Subtotal 6</b>                 | \$0 |
| Total EB Amounts           | \$257             | *Capped at the Total EB \$ Amount |     |
| Approx. Cost of Compliance | \$5,000           |                                   |     |

|                             |                       |       |
|-----------------------------|-----------------------|-------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$250 |
|-----------------------------|-----------------------|-------|

|   |      |                   |     |
|---|------|-------------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes:

|                             |       |
|-----------------------------|-------|
| <b>Final Penalty Amount</b> | \$250 |
|-----------------------------|-------|

|                                   |                               |       |
|-----------------------------------|-------------------------------|-------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$250 |
|-----------------------------------|-------------------------------|-------|

|                 |                 |                   |       |
|-----------------|-----------------|-------------------|-------|
| <b>DEFERRAL</b> | 20.0% Reduction | <b>Adjustment</b> | -\$50 |
|-----------------|-----------------|-------------------|-------|

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

Notes: Deferral offered for expedited settlement.

|                        |       |
|------------------------|-------|
| <b>PAYABLE PENALTY</b> | \$200 |
|------------------------|-------|

Screening Date 7-Jan-2010

Docket No. 2010-0080-MLM-E

PCW

Respondent Asuncion Manríquez Galera dba Discount Waste

Policy Revision 2 (September 2002)

Case ID No. 38992

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105806236

Media [Statute] Used Oil

Enf. Coordinator Clinton Sims

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 0                 | 0%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 0                 | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)                                       | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 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 adjustments due to compliance history.

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

Screening Date 7-Jan-2010

Docket No. 2010-0080-MLM-E

PCW

Respondent Asuncion Manriquez Galera dba Discount Waste

Policy Revision 2 (September 2002)

Case ID No. 38992

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105806236

Media [Statute] Used Oil

Enf. Coordinator Clinton Sims

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 324.6 and 40 Code of Federal Regulations § 279.22(d)

Violation Description

Failed to prevent the unauthorized discharge of waste. Specifically, three 5-gallon buckets containing waste oil and two 55-gallon drums containing waste oil were not properly sealed and were leaking. Also, four oil stains were observed at the Facility.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          | X     |
| Potential |       |          |       |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1

50 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | X |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$250

One quarterly event is recommended from the November 18, 2009 investigation completion date to the January 7, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement

\$0

|               |   |               |
|---------------|---|---------------|
| Extraordinary |   |               |
| Ordinary      |   |               |
| N/A           | X | (mark with x) |

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$257

Violation Final Penalty Total \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

# Economic Benefit Worksheet

**Respondent** Asuncion Manriquez Galera dba Discount Waste  
**Case ID No.** 38992  
**Reg. Ent. Reference No.** RN105806236  
**Media** Used Oil  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

No commas or \$

**Delayed Costs**

|                          |         |             |             |      |       |     |       |
|--------------------------|---------|-------------|-------------|------|-------|-----|-------|
| Equipment                |         |             |             | 0.00 | \$0   | \$0 | \$0   |
| Buildings                |         |             |             | 0.00 | \$0   | \$0 | \$0   |
| Other (as needed)        |         |             |             | 0.00 | \$0   | \$0 | \$0   |
| Engineering/construction |         |             |             | 0.00 | \$0   | \$0 | \$0   |
| Land                     |         |             |             | 0.00 | \$0   | n/a | \$0   |
| Record Keeping System    |         |             |             | 0.00 | \$0   | n/a | \$0   |
| Training/Sampling        |         |             |             | 0.00 | \$0   | n/a | \$0   |
| Remediation/Disposal     | \$5,000 | 17-Sep-2009 | 27-Sep-2010 | 1.03 | \$257 | n/a | \$257 |
| Permit Costs             |         |             |             | 0.00 | \$0   | n/a | \$0   |
| Other (as needed)        |         |             |             | 0.00 | \$0   | n/a | \$0   |

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the containers and contaminated soil at the Site. The Date Required is the Investigation start date and the Final Date is the expected compliance date.

**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

\$5,000

TOTAL

\$257



# Penalty Calculation Worksheet (PCW)

|              |                 |             |                  |            |                |  |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 21-Dec-2009 | <b>Screening</b> | 7-Jan-2010 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 14-Jan-2010 |                  |            |                |  |

|  |  |
|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |
| <b>Respondent</b>                      | Asuncion Manriquez Galera dba Discount Waste |
| <b>Reg. Ent. Ref. No.</b>              | RN105806236                                  |
| <b>Facility/Site Region</b>            | 12-Houston                                   |
| <b>Major/Minor Source</b>              | Minor  |

|  |                       |                              |                    |
|--|-----------------------|------------------------------|--------------------|
| <b>CASE INFORMATION</b>                |                       |                              |                    |
| <b>Enf./Case ID No.</b>                | 38992                 | <b>No. of Violations</b>     | 1                  |
| <b>Docket No.</b>                      | 2010-0080-MLM-E       | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Municipal Solid Waste | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     | Used Oil              | <b>Enf. Coordinator</b>      | Clinton Sims       |
|  |                       | <b>EC's Team</b>             | Enforcement Team 6 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0                   | <b>Maximum</b>               | \$10,000           |

## Penalty Calculation Section

|   |                   |         |
|---|-------------------|---------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$1,000 |
|---|-------------------|---------|

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

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

|                           |                  |                                |     |
|---------------------------|------------------|--------------------------------|-----|
| <b>Compliance History</b> | 0.0% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | \$0 |
|---------------------------|------------------|--------------------------------|-----|

Notes: No adjustments due to compliance history.

|                    |    |                  |                   |     |
|--------------------|----|------------------|-------------------|-----|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |     |
|--|-------------------|-----|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | \$0 |
|--|-------------------|-----|

|                         |                  |                   |     |
|-------------------------|------------------|-------------------|-----|
| <b>Economic Benefit</b> | 0.0% Enhancement | <b>Subtotal 6</b> | \$0 |
|-------------------------|------------------|-------------------|-----|

|                            |          |
|----------------------------|----------|
| Total EB Amounts           | \$983    |
| Approx. Cost of Compliance | \$19,131 |

\*Capped at the Total EB \$ Amount

|                             |                       |         |
|-----------------------------|-----------------------|---------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$1,000 |
|-----------------------------|-----------------------|---------|

|   |      |                   |     |
|---|------|-------------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

|                             |         |
|-----------------------------|---------|
| <b>Final Penalty Amount</b> | \$1,000 |
|-----------------------------|---------|

|                                   |                               |         |
|-----------------------------------|-------------------------------|---------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$1,000 |
|-----------------------------------|-------------------------------|---------|

|                 |       |           |                   |        |
|-----------------|-------|-----------|-------------------|--------|
| <b>DEFERRAL</b> | 20.0% | Reduction | <b>Adjustment</b> | -\$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.

|                        |       |
|------------------------|-------|
| <b>PAYABLE PENALTY</b> | \$800 |
|------------------------|-------|

Screening Date 7-Jan-2010

Docket No. 2010-0080-MLM-E

PCW

Respondent Asuncion Manriquez Galera dba Discount Waste

Policy Revision 2 (September 2002)

Case ID No. 38992

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105806236

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

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

Screening Date 7-Jan-2010

Docket No. 2010-0080-MLM-E

PCW

Respondent Asuncion Manriquez Galera dba Discount Waste

Policy Revision 2 (September 2002)

Case ID No. 38992

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105806236

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to prevent the unauthorized disposal, storage, and processing of municipal solid waste ("MSW"). Specifically, approximately 800 cubic yards of MSW including construction and demolition waste, mixed waste, cardboard waste, plastic waste, paper waste, and wood waste were disposed of on the ground.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          | X     |
| Potential |       |          |       |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

50 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | X |
| semiannual   |   |
| annual       |   |
| single event |   |

Violation Base Penalty \$1,000

One quarterly event is recommended from the November 18, 2009 investigation completion date to the January 7, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

|          | Before NOV    | NOV to EDRP/Settlement |
|----------|---------------|------------------------|
|          | Extraordinary |                        |
| Ordinary |               |                        |
| N/A      | X             | (mark with x)          |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$983

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

## Economic Benefit Worksheet

**Respondent** Asuncion Manriquez Galera dba Discount Waste  
**Case ID No.** 38992  
**Reg. Ent. Reference No.** RN105808236  
**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

| Item Description         | Item Cost | Date Required | Final Date  | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| 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     | \$19,131  | 17-Sep-2009   | 27-Sep-2010 | 1.03 | \$983          | n/a           | \$983     |
| Permit Costs             |           |               |             | 0.00 | \$0            | n/a           | \$0       |
| Other (as needed)        |           |               |             | 0.00 | \$0            | n/a           | \$0       |

Notes for DELAYED costs

Estimated cost to remove and properly dispose of the MSW at an authorized facility. The Date Required is the investigation start date and the Final Date is the expected compliance date.

### Avoided Costs

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

| Item Description              | Item Cost | Date Required | Final Date | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal                      |           |               |            | 0.00 | \$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

\$19,131

**TOTAL**

\$983

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603583527 GALERA, ASUNCION MANRIQUEZ Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN105806236 DISCOUNT WASTE Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT

ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER455120137  
Location: 15506 LEE RD, HUMBLE, TX, 77396

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 08, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 06, 2005 to January 06, 2010

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

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

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ASUNCION MANRIQUEZ GALERA  
DBA DISCOUNT WASTE  
RN105806236**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0080-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 Asuncion Manriquez Galera dba Discount Waste ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 371 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 waste transfer facility at 15506 Lee Road in Humble, Harris County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste ("MSW") and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.
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 December 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 One Thousand Two Hundred Fifty Dollars (\$1,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid One Thousand Dollars (\$1,000) of the administrative penalty and Two Hundred Fifty Dollars (\$250) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized disposal, storage and processing of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted from September 17, 2009 through November 18, 2009. Specifically, approximately 800 cubic yards of MSW including construction and demolition waste, mixed waste, cardboard waste, plastic waste, paper waste, and wood waste were disposed of on the ground.
2. Failed to prevent the unauthorized discharge of waste, in violation of 30 TEX. ADMIN. CODE § 324.6 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 279.22(d), as documented during an investigation conducted from September 17, 2009 through November 18, 2009. Specifically, three 5-gallon buckets containing waste oil and two 55-gallon drums containing waste oil were not properly sealed and were leaking. Also, four oil stains were observed at the Facility.

## 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: Asuncion Manriquez Galera dba Discount Waste, Docket No. 2010-0080-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 the unauthorized disposal, storage, and processing of MSW at the Facility.
  - b. Within 30 days after the effective date of this Agreed Order:
    - i. Remove all wastes and dispose of at an authorized facility; and
    - ii. Remove all contaminated soils from the Site and dispose of at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 324.6 and 40 CFR § 279.22.
  - c. Within 45 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. through 2.b.ii.. 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

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 Facility 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 Szeleny  
For the Executive Director

7/26/2010  
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.

Asuncion Galera  
Signature

4 12 10  
Date

Asuncion Galera  
Name (Printed or typed)  
Authorized Representative of  
Asuncion Manriquez Galera dba Discount Waste

owner  
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.

