

Executive Summary – Enforcement Matter – Case Nos. 40104 and 40309  
EnviroGreen Recovery Solutions LLC  
RN105880348 and RN105953244  
Docket No. 2010-1224-MLM-E

**Order Type:**

Default Order

**Findings Order Justification:**

N/A

**Media:**

MLM – AIR; Municipal Solid Waste

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

24942 Highway 73, Winnie, Jefferson County ("Site 1")

22352 Vincent Road, Hampshire, Jefferson County ("Site 2")

**Type of Operation:**

Unauthorized waste processing and disposal sites

**Other Significant Matters:**

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: None

**Texas Register Publication Date:** April 29, 2011

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$10,468

**Amount Deferred for Expedited Settlement:** N/A

**Amount Deferred for Financial Inability to Pay:** N/A

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$10,468

**Compliance History Classifications:**

Site 1:

Person/CN – Not yet rated

Site/RN – Average by Default

Site 2:

Person/CN – Average

Site/RN – Average by Default

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case Nos. 40104 and 40309**  
**EnviroGreen Recovery Solutions LLC**  
**RN105880348 and RN105953244**  
**Docket No. 2010-1224-MLM-E**

Page 2 of 2

***Investigation Information***

**Complaint Date(s):** March 25, 2010; April 5, 2010; June 8, 2010  
**Complaint Information:** Complaints alleged that trash was being brought to the site without authorization and being burned.

**Date(s) of Investigation:** March 25, 2010; July 9, 2010; July 28, 2010

**Date(s) of NOV(s):** April 29, 2010

**Date(s) of NOE(s):** July 15, 2010; August 20, 2010

***Violation Information***

1. Failed to prohibit the unauthorized outdoor burning of MSW for the purposes of disposal (approx. five cubic yards of lumber and metal) [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to prevent the unauthorized disposal of MSW (approx. 20,000 cubic yards of construction and demolition waste, lumber, mattresses, concrete, metal, plastic, and other miscellaneous items) [30 TEX. ADMIN. CODE § 330.15(c)].
3. Failed to prevent the unauthorized disposal of MSW (approx. 10,000 cubic yards of construction and demolition waste) [30 TEX. ADMIN. CODE § 330.15(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**  
N/A

**Technical Requirements:**

1. Immediately cease disposing of any additional MSW at the Sites.
2. Within 30 days, remove all MSW from the Sites and dispose of it at an authorized facility.
3. Within 45 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** February 18, 2011

**Date(s) Green Card(s) Signed:** February 22, 2011

**Date(s) Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

***Contact Information***

**TCEQ Attorneys:** Stephanie J. Frazee, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400

**TCEQ Enforcement Coordinator:** Danielle Porras, Waste Enforcement Section, (713) 767-3682

**TCEQ Regional Contact:** Derek Eades, Beaumont Regional Office, MC R-10, (409) 898- 3838

**Respondent:** Cindy Winter, EnviroGreen Recovery Solutions, LLC; 2925 Gulf Freeway South, Ste. B-153, League City, Texas, 77573; Nathan Gordon, Jr., EnviroGreen Recovery Solutions, LLC; 3215 Pebble Trace Dr., Houston, Texas, 77068; Gistavo C. Luque, EnviroGreen Recovery Solutions, LLC; 825 S. Telshor Blvd., Apt. 6, Las Cruces, New Mexico, 88011

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	19-Jul-2010	<b>Screening</b>	28-Jul-2010	<b>EPA Due</b>	
	<b>PCW</b>	7-Feb-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	EnviroGreen Recovery Solutions LLC		
<b>Reg. Ent. Ref. No.</b>	RN105880348		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40104	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1224-MLM-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Air	<b>Enf. Coordinator</b>	Danielle Porras
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$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: Enhancement for one previous NOV with same/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: \$6,827  
 Approx. Cost of Compliance: \$175,583  
 \*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **8.4%** **Adjustment** **\$618**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the avoided cost of compliance associated with violation no. 1.

**Final Penalty Amount** **\$7,968**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$7,968**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

Notes: No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$7,968**

**Screening Date** 28-Jul-2010

**Docket No.** 2010-1224-MLM-E

**PCW**

**Respondent** EnviroGreen Recovery Solutions LLC

*Policy Revision 2 (September 2002)*

**Case ID No.** 40104

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN105880348

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Danielle Porras

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	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)** 5%

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

No

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

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one previous NOV with same/similar violations.

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

Screening Date 28-Jul-2010

Docket No. 2010-1224-MLM-E

PCW

Respondent EnviroGreen Recovery Solutions LLC

Policy Revision 2 (September 2002)

Case ID No. 40104

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105880348

Media [Statute] Municipal Solid Waste

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prohibit the unauthorized outdoor burning of municipal solid waste ("MSW") for the purposes of disposal. Specifically, approximately five cubic yards of lumber and metal were burned in an open trench.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				x	10%
Potential					

>> 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 2 102 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended from the investigation date of March 25, 2010 to the July 5, 2010 date of compliance.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th 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 \$618

Violation Final Penalty Total \$2,277

This violation Final Assessed Penalty (adjusted for limits) \$2,277

## Economic Benefit Worksheet

**Respondent** EnviroGreen Recovery Solutions LLC  
**Case ID No.** 40104  
**Req. Ent. Reference No.** RN105880348  
**Media** Municipal Solid Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$583	25-Mar-2010	5-Jul-2010	1.20	\$35	\$583	\$618
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to have properly disposed of the MSW at an authorized facility rather than burning. The Date Required is the date of the investigation and the Final Date is the compliance date.

Approx. Cost of Compliance \$583

**TOTAL** \$618

Screening Date 28-Jul-2010

Docket No. 2010-1224-MLM-E

PCW

Respondent EnviroGreen Recovery Solutions LLC

Policy Revision 2 (September 2002)

Case ID No. 40104

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105880348

Media [Statute] Municipal Solid Waste

Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)

Violation Description Failed to prevent the unauthorized disposal of MSW. Specifically, approximately 20,000 cubic yards of construction and demolition waste, lumber, mattresses, concrete, metal, plastic, and other miscellaneous items were disposed of at the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (50%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 19 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$5,000

One monthly event is recommended from the investigation date of July 9, 2010 to the July 28, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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 \$6,209

Violation Final Penalty Total \$5,691

This violation Final Assessed Penalty (adjusted for limits) \$5,691

## Economic Benefit Worksheet

**Respondent** EnviroGreen Recovery Solutions LLC  
**Case ID No.** 40104  
**Req. Ent. Reference No.** RN105880348  
**Media** Municipal Solid Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$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	\$175,000	9-Jul-2010	25-Mar-2011	0.71	\$6,209	n/a	\$6,209
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 the MSW and dispose of it at a facility authorized to accept the waste. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$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

\$175,000

**TOTAL**

\$6,209



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	23-Aug-2010	<b>Screening</b>	27-Aug-2010	<b>EPA Due</b>	
	<b>PCW</b>	22-Dec-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	EnviroGreen Recovery Solutions LLC		
<b>Reg. Ent. Ref. No.</b>	RN105953244		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40309	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1224-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>	Air	<b>Enf. Coordinator</b>	Andrea Park
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$2,500**

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

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

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for Compliance History.

**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: \$3,310  
 Approx. Cost of Compliance: \$88,500  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$2,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$2,500**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$2,500**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

Notes:

Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$2,500**

**Screening Date** 27-Aug-2010

**Docket No.** 2010-1224-MLM-E

**PCW**

**Respondent** EnviroGreen Recovery Solutions LLC

*Policy Revision 2 (September 2002)*

**Case ID No.** 40309

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN105953244

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Andrea Park

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("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)**

N/A

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

No adjustment for Compliance History.

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

Screening Date 27-Aug-2010

Docket No. 2010-1224-MLM-E

PCW

Respondent EnviroGreen Recovery Solutions LLC

Policy Revision 2 (September 2002)

Case ID No. 40309

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105953244

Media [Statute] Municipal Solid Waste

Enf. Coordinator Andrea Park

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)

Violation Description Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 10,000 cubic yards of MSW consisting of construction and demolition waste were disposed of at the Site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 30 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$2,500

One monthly event is recommended from the July 28, 2010 investigation to the August 27, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,310 Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

## Economic Benefit Worksheet

**Respondent** EnviroGreen Recovery Solutions LLC  
**Case ID No.** 40309  
**Req. Ent. Reference No.** RN105953244  
**Media** Municipal Solid Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$88,500	28-Jul-2010	27-Apr-2011	0.75	\$3,310	n/a	\$3,310
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of approximately 10,000 cubic yards of waste at an authorized facility. The date required is the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$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

\$88,500

**TOTAL**

\$3,310

## Compliance History Report

Customer/Respondent/Owner-Operator:	CN603630179	EnviroGreen Recovery Solutions LLC	Classification:	Rating:
Regulated Entity:	RN105880348	Air Curtain Incinerator Model No. CP 4000 HD JD8	Classification:Average By Default	Site Rating:3.01
ID Number(s):	AIR NEW SOURCE PERMITS	AFS NUM		4877702084
	AIR NEW SOURCE PERMITS	REGISTRATION		91838L001
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER		960379W
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		960379W
	AIR OPERATING PERMITS	PERMIT		3359
	INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED	ID NUMBER		455100062
Location:	24942 HIGHWAY 73, WINNIE, TX, 77665			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	July 28, 2010			

Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: July 28, 2005 to July 28, 2010

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

Name: Danielle Porras Phone: (713) 767-3682

### 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.)  
1 07/15/2010 (830565)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  

Date:	04/29/2010 (797295)	CN603630179
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 111, SubChapter B 111.201 5C THSC Chapter 382 382.085(b)	
Description:	Failure to perform allowable outdoor burning in an authorized manner.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 330, SubChapter A 330.15(c)	
Description:	Failure to properly dispose of waste.	
  - 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

## Compliance History Report

Customer/Respondent/Owner-Operator:	CN603630179	EnviroGreen Recovery Solutions LLC	Classification: AVERAGE	Rating: N/A
Regulated Entity:	RN105953244	22352 Vincent Road	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED		ID NUMBER	455100061
Location:	22352 VINCENT RD, HAMPSHIRE, TX, 77622			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	August 25, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 25, 2005 to August 25, 2010			

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

Name: Andrea Park Phone: (512) 239-4575

### 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.)  
1 08/20/2010 (844405)
  - 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  
ENVIROGREEN RECOVERY  
SOLUTIONS LLC;  
RN105880348  
RN105953244**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

### **DOCKET NO. 2010-1224-MLM-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is EnviroGreen Recovery Solutions LLC ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent operates unauthorized waste processing and disposal sites located at 24942 Highway 73 in Winnie, Jefferson County, Texas ("Site 1") and at 22352 Vincent Road in Hampshire, Jefferson County, Texas ("Site 2") (collectively, the "Sites"). Site 1 consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12). The Sites involve the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During investigations conducted at Site 1 on March 25, 2010, and July 9, 2010, a TCEQ Beaumont Regional Office investigator documented that Respondent:
  - a. Failed to prohibit the unauthorized outdoor burning of MSW for the purposes of disposal. Specifically, approximately five cubic yards of lumber and metal were burned in an open trench at Site 1; and
  - b. Failed to prevent the unauthorized disposal of MSW. Specifically, approximately 20,000 cubic yards of construction and demolition waste, lumber, mattresses, concrete, metal, plastic, and other miscellaneous items were disposed of at Site 1.
3. During an investigation conducted at Site 2 on July 28, 2010, a TCEQ Beaumont Regional Office investigator documented that Respondent failed to prevent the unauthorized disposal of MSW. Specifically, approximately 10,000 cubic yards of MSW consisting of construction and demolition waste were disposed of at Site 2.

4. Respondent received notice of the violations in Findings of Fact Nos. 2.a. and 2.b. on or about July 20, 2010. Respondent received notice of the violations in Finding of Fact No. 3 on or about August 25, 2010.
5. The Executive Director recognizes that on July 5, 2010, Respondent submitted documentation to the Beaumont Regional Office stating that all unauthorized burning at Site 1 has ceased and measures had been implemented to prevent future occurrences.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of EnviroGreen Recovery Solutions LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on February 18, 2011.
7. By letter dated February 18, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on February 22, 2011, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP provided by the Executive Director. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to prohibit the unauthorized outdoor burning of MSW for the purposes of disposal at Site 1, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to prevent the unauthorized disposal of MSW at Site 1, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
4. As evidenced by Finding of Fact No. 3, Respondent failed to prevent the unauthorized disposal of MSW at Site 2, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
5. As evidenced by Findings of Fact Nos. 6 and 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may

enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.

7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of ten thousand four hundred sixty-eight dollars (\$10,468.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of ten thousand four hundred sixty-eight dollars (\$10,468.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: EnviroGreen Recovery Solutions LLC; Docket No. 2010-1224-MLM-E" to:

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

3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Respondent shall cease disposing of any additional MSW at the Sites;
  - b. Within 30 days after the effective date of this Order, Respondent shall remove all MSW from the Sites and dispose of it at an authorized facility; and
  - c. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with

Ordering Provision Nos. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and shall include the following certification language:

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

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Derek Eades, Waste Section Manager  
Texas Commission on Environmental Quality  
Beaumont Regional Office  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF STEPHANIE J. FRAZEE**

**STATE OF TEXAS**

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**COUNTY OF TRAVIS**

"My name is Stephanie J. Frazee. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of EnviroGreen Recovery Solutions LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 18, 2011.

The EDPRP was mailed to Respondent's last known address on February 18, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on February 22, 2011, as evidenced by the signature on the card.

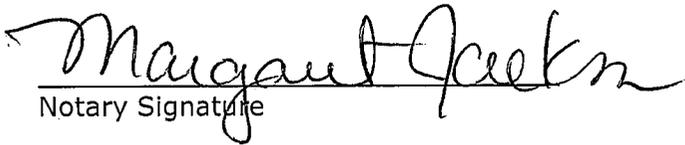
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



Stephanie J. Frazee, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 13th day of April, A.D. 2011.



Notary Signature

