

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 42677
CENTRAL STATE SHINGLE RECYCLING LLC
RN106192594, RN106193550 AND RN101838456
Docket No. 2011-1823-MSW-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
MSW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
600 block of South Railroad Street, Lewisville, Denton County (RN106192594) ("Site 1");
957 South Blue Mound Road, Blue Mound, Tarrant County (RN106193550) ("Site 2");
4912 Dozier Road, Hebron/Carrollton, Denton County (RN101838456) ("Site 3")

Type of Operation:
unauthorized municipal solid waste ("MSW") disposal sites

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None

Other: Site 3 is situated on the border of Hebron and Carrollton, with the majority of the Site being located in Hebron, however, the US Postal Service assigned the city of Carrollton as the Site's mailing address.

Interested Third-Parties: City of Carrollton

Texas Register Publication Date: April 27, 2012

Comments Received: One comment was received from the City of Carrollton (attached).

Penalty Information

Total Penalty Assessed: \$18,375

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$18,375

Compliance History Classifications:

Person/CN – Average
Site/RN – Average (All 3 Sites)

Major Source: No (All 3 Sites)

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: July 6, 2011 (Site 1); August 4, 2011 (Sites 2 and 3)
Date(s) of NOV(s): September 12, 2011
Date(s) of NOE(s): September 12, 2011

Violation Information

Failed to prevent the unauthorized disposal of MSW (Site 1: approx. 1,091 cu/yd of asphalt shingles and three cu/yd of metal, bricks, lumber, cardboard, and vegetation; Site 2: approx. 1,250 cu/yd of asphalt shingles, 35 cu/yd of scrap metal, and 35 cu/yd of paper, plastic, and cardboard; Site 3: approx. 5,000 cu/yd of asphalt shingles, 30 cu/yd of scrap metal, and 90 cu/yd of paper, plastic, and cardboard) [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 either dispose of or recycle the MSW at an authorized facility.
3. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: January 13, 2012
Date(s) Green Card(s) Signed: January 24, 2012
Date(s) Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jeffrey Huhn, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
James Murphy, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Keith Frank, Waste Enforcement Section, (512) 239-1203
TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5903
Respondent: Scott Yelton, Managing Member, Central State Shingle Recycling LLC, 3313 Red Rock Drive, Moore, Oklahoma 73165
Respondent's Attorney: N/A



May 16, 2012

Jeff Huhn, Litigation Division
Texas Commission on Environmental Quality
P.O. Box 13087, MC 175
Austin, Texas 78711-3087

Subject: City of Carrollton Comment in Support of the Proposed Default Order against Central State Shingle Recycling LLC, RN101838456
Reference: TCEQ Docket No: 2011-1823-MSW-E

Dear Mr. Huhn:

The Central State Shingle Recycling, LLC (CSSR) facility located at 4912 Dozier Road, Town of Hebron, Denton County, Texas borders the City of Carrollton. This close proximity to CSSR's operations and current abandonment has resulted in public health and environmental impacts on the city and its residents. For this reason, the city is compelled to submit this public comment in support of the Default Order against CSSR as proposed by the Staff of the Texas Commission on Environmental Quality.

At the height of CSSR operations, dust generated from the unloading and shredding of shingles drifted into the adjacent homes. Noxious fumes from its heavy equipment and idling vehicles contributed to the deterioration of air quality. While asbestos has been prohibited from being a component in shingles since the early 1980's, there did not appear to be a verification of asbestos presence in the shingles being processed at the CSSR Dozier location, giving rise to the possibility of asbestos or presumed asbestos-containing material (PACM) exposure in the area.

In addition, storm water run-off from the facility is heavily-loaded with grayish solids from the shingle particulates. The particulate pollutants clearly found their way into the storm drains and consequently into the receiving creek, a tributary of the Elm Fork of the Trinity River.

OFFICE OF THE MAYOR

1945 E. Jackson Rd., Carrollton, TX 75006 | 972.466.3000 | Fax: 972.466.3175
P.O. Box 110535, Carrollton, TX 75011-0535 | cityofcarrollton.com

During the latest visual inspection by the city, the facility appeared to still be abandoned. The fence had several missing slats; grayish matter had spilled outside of the property; and numerous mounds of shingles ranging from five to eight feet in height were left on the property. While there may no longer be any active air pollution from this facility, contamination of stormwater continues and will continue for as long as the shingle dumps are not completely and properly removed from this facility.

The city supports the Default Order's Corrective Action requirement "to remove all MSW from the Sites and dispose or recycle it at an authorized facility." In addition, the city suggests that the required cleanup measures must incorporate appropriate dust suppression and runoff controls to minimize further environmental impacts.

I close this comment by expressing the city's gratitude to the Texas Commission on Environmental Quality. In proposing this Default Order against CSSR, TCEQ is protecting and promoting public health and environmental sustainability in our community.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Marchant", with a long horizontal flourish extending to the right.

Matthew Marchant

Mayor



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Sep-2011			
	PCW	13-Jan-2012	Screening	30-Sep-2011	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Central State Shingle Recycling LLC ("Site 1")			
Reg. Ent. Ref. No.	RN106192594			
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	42677	No. of Violations	1
Docket No.	2011-1823-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$375**

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: \$971
 Approx. Cost of Compliance: \$20,540
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$7,875**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$7,875**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$7,875**

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 **\$7,875**

Screening Date	30-Sep-2011	Docket No.	2011-1823-MSW-E	PCW
Respondent	Central State Shingle Recycling LLC ("Site 1")			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	42677			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN106192594			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Keith Frank			

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)**

Average Performer

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	30-Sep-2011	Docket No.	2011-1823-MSW-E	PCW
Respondent	Central State Shingle Recycling LLC ("Site 1")			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	42677			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN106192594			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Keith Frank			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm			Percent <input type="text" value="25%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	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

Good Faith Efforts to Comply

Reduction

		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)	

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Central State Shingle Recycling LLC ("Site 1")
Case ID No. 42677
Req. Ent. Reference No. RN106192594
Media 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	\$20,540	6-Jul-2011	15-Jun-2012	0.95	\$971	n/a	\$971
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 an authorized facility. Date Required is the investigation date. 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

\$20,540

TOTAL

\$971



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Sep-2011			
	PCW	13-Jan-2012	Screening	30-Sep-2011	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Central State Shingle Recycling LLC ("Site 2")			
Reg. Ent. Ref. No.	RN106193550			
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	42677	No. of Violations	1
Docket No.	2011-1823-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		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** **\$5,000**

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** **\$250**

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	\$11,152	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$257,616	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$5,250**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,250**

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 **\$5,250**

Screening Date	30-Sep-2011	Docket No.	2011-1823-MSW-E	PCW
Respondent	Central State Shingle Recycling LLC ("Site 2")			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	42677			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN106193550			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Keith Frank			

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)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one previous NOV with same/similar violations.

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

Screening Date	30-Sep-2011	Docket No.	2011-1823-MSW-E	PCW
Respondent	Central State Shingle Recycling LLC ("Site 2")	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	42677	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN106193550			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Keith Frank			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm				Percent <input type="text" value="25%"/>
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	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

Good Faith Efforts to Comply Reduction

	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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Central State Shingle Recycling LLC ("Site 2")
Case ID No. 42677
Req. Ent. Reference No. RN106193550
Media 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	\$257,616	4-Aug-2011	15-Jun-2012	0.87	\$11,152	n/a	\$11,152
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 an authorized facility. Date Required is the investigation date. 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

\$257,616

TOTAL

\$11,152



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Sep-2011			
	PCW	13-Jan-2012	Screening	30-Sep-2011	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Central State Shingle Recycling LLC ("Site 3")			
Reg. Ent. Ref. No.	RN101838456			
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	42677	No. of Violations	1
Docket No.	2011-1823-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		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** **\$5,000**

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	\$250
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	\$6,516	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$150,530		

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
	Final Penalty Amount \$5,250

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,250**

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.
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PAYABLE PENALTY **\$5,250**

Screening Date	30-Sep-2011	Docket No.	2011-1823-MSW-E	PCW
Respondent	Central State Shingle Recycling LLC ("Site 3")			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	42677			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101838456			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Keith Frank			

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)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one previous NOV with same/similar violations.

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

Screening Date	30-Sep-2011	Docket No.	2011-1823-MSW-E	PCW
Respondent	Central State Shingle Recycling LLC ("Site 3")	Policy Revision 2 (September 2002)		
Case ID No.	42677	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN101838456			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Keith Frank			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm				Percent <input type="text" value="25%"/>
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	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

Good Faith Efforts to Comply Reduction

	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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Central State Shingle Recycling LLC ("Site 3")
Case ID No. 42677
Req. Ent. Reference No. RN101838456
Media 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	\$150,530	4-Aug-2011	15-Jun-2012	0.87	\$6,516	n/a	\$6,516
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 an authorized facility. Date Required is the investigation date. 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

\$150,530

TOTAL

\$6,516

Compliance History

Customer/Respondent/Owner-Operator: CN603939265 Central State Shingle Recycling LLC Classification: AVERAGE Rating: 3.01
 Regulated Entity: RN106192594 Central State Shingle Recycling Classification: AVERAGE Site Rating: 3.01
 Blue Mound

ID Number(s):
 Location: 957 S BLUE MOUND RD, BLUE MOUND, TX, 76131
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: September 28, 2011
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: September 28, 2006 to September 28, 2011
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Keith Frank Phone: (512) 239-1203

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: 9/1/2011 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 09/16/2011 (949730)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 09/12/2011 (949730)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)
 Description: Failure to prevent the disposal of municipal solid waste at an unauthorized facility.
 - 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

Customer/Respondent/Owner-Operator: CN603939265 Central State Shingle Recycling LLC Classification: AVERAGE Rating: 3.01
Regulated Entity: RN101838456 4912 Dozier Road Classification: AVERAGE Site Rating: 3.01
ID Number(s):
Location: 4912 DOZIER RD, CARROLLTON, TX, 75010
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: September 28, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 28, 2006 to September 28, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Keith Frank Phone: (512) 239-1203

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: 9/1/2011 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 09/15/2011 (949549)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 09/12/2011 (949549)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)
Description: Failure to prevent the disposal of municipal solid waste at an unauthorized facility.
 - 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CENTRAL STATE SHINGLE
RECYCLING LLC;
RN106192594, RN106193550
AND RN101838456**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-1823-MSW-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 ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Central State Shingle Recycling LLC ("Respondent").

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

FINDINGS OF FACT

1. Respondent operates three unauthorized municipal solid waste ("MSW") disposal sites (collectively referred to as the "Sites") located at: the 600 block of South Railroad Street in Lewisville, Denton County, Texas (RN106192594) ("Site 1"); 957 South Blue Mound Road in Blue Mound, Tarrant County, Texas (RN106193550) ("Site 2"); and 4912 Dozier Road in Hebron, Denton County, Texas (RN101838456) ("Site 3"). The Sites involve the management and/or the disposal of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on July 6, 2011, at Site 1, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent failed to prevent the unauthorized disposal of MSW. Specifically, approximately 1,091 cubic yards of asphalt shingles and three cubic yards of MSW which included plastic, metal, bricks, lumber, cardboard, and vegetation were disposed of at Site 1.
3. During an investigation conducted on August 4, 2011, at Site 2, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent failed to prevent the unauthorized disposal of MSW. Specifically, approximately 1,250 cubic yards of asphalt shingles, approximately 35 cubic yards of scrap metal, and approximately 35 cubic yards of MSW which included paper, plastic, and cardboard were disposed of at Site 2.
4. During an investigation conducted on August 4, 2011, at Site 3, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent failed to prevent the unauthorized disposal of MSW. Specifically, approximately 5,000 cubic yards of asphalt shingles, approximately 30 cubic yards of scrap metal, and approximately 90 cubic yards of MSW which included paper, plastic, and cardboard were disposed of at Site 3.

5. Respondent received notice of the violations on or about September 17, 2011.
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 Central State Shingle Recycling LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on January 13, 2012.
7. By letter dated January 13, 2012, 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 January 24, 2012, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

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 ch. 361 and the rules of the Commission.
2. As evidenced by Findings of Fact Nos. 2, 3, and 4, Respondent failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
3. 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).
4. 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.
5. 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.
6. An administrative penalty in the amount of eighteen thousand three hundred seventy-five dollars (\$18,375.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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 eighteen thousand three hundred seventy-five dollars (\$18,375.00) 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: Central State Shingle Recycling LLC; Docket No. 2011-1823-MSW-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 either dispose of or recycle the MSW at an authorized facility.
 - c. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, 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 supporting 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:

Sam Barrett, Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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 Sites operations referenced in this Order.
6. 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.
7. 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.
8. 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.
9. 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

For the Commission

AFFIDAVIT OF JEFFREY J. HUHN

STATE OF TEXAS

§

COUNTY OF BEXAR

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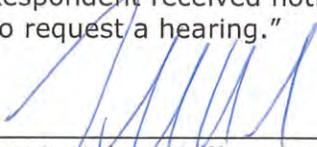
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"My name is Jeffrey J. Huhn. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

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 Central State Shingle Recycling LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on January 23, 2012.

The EDPRP was mailed to Respondent's last known address on January 23, 2012, 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 January 24, 2012, as evidenced by the signature on the card.

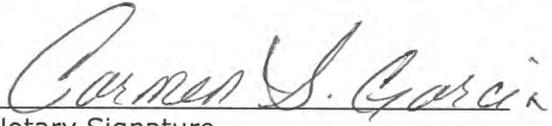
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



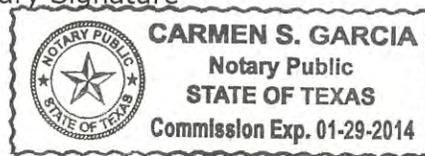
Jeffrey J. Huhn, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 12 day of April, A.D. 2012.



Notary Signature



Notary without Bond