

**Ernesto E. Ramirez**  
**RN106237480**  
**Docket No. 2011-2248-MSW-E**

**Order Type:**

Default Order

**Findings Order Justification:**

N/A

**Media:**

MSW

**Small Business:**

Yes

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

425 Pvt Rosie Road, Beeville, Bee County

**Type of Operation:**

tire disposal facility

**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:** August 3, 2012

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$33,750

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

**Total Due to General Revenue:** \$33,750

**Compliance History Classifications:**

Person/CN –Not yet rated  
 Site/RN – Not yet rated

**Major Source:** Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Investigation Information**

**Complaint Date(s):** September 1, 2011; April 25, 2012

Complaint Information: First complaint, from City of Beeville Code Enforcement, expressed concern that tires were not being properly disposed of. Second complainant alleged that there were hundreds of tires dumped at the property and was concerned about snakes, mosquitoes, and rats.

**Date(s) of Investigation:** September 13, 2011

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** November 22, 2011

**Ernesto E. Ramirez**  
**RN106237480**  
**Docket No. 2011-2248-MSW-E**

**Violation Information**

1. Failed to identify all vehicles and equipment used for the collection and transportation of used or scrap tires or tire pieces on both sides and the rear of the vehicle, failed to obtain a tire transporter registration prior to transporting used and/or scrap tires, and failed to use manifests to document each individual collection and delivery of used and/or scrap tires [30 TEX. ADMIN. CODE §§ 328.54(d), 328.57(c)(1), and 328.57(c)(2)].
2. Failed to prevent unauthorized disposal of municipal solid waste ("MSW") (approx. 18,735 scrap tires, and approx. 18 cu/yds of household garbage, furniture, a computer, lawn furniture, and carpet) [30 TEX. ADMIN. CODE § 330.15(c)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately:
  - a. Cease disposing of any additional MSW at the Facility; and
  - b. Cease transporting used and/or scrap tires until the required TCEQ registration is obtained.
2. Within 30 days:
  - a. Identify all vehicles and equipment used for the collection and transportation of used tires or scrap tires or tire pieces;
  - b. Remove all MSW, including but not limited to household garbage, discarded furniture, carpeting, used tires, scrap tires, and scrap tire pieces, from the Facility and dispose of it at an authorized facility;
  - c. Obtain a tire transporter registration; and
  - d. Develop and implement procedures to ensure that each individual collection and delivery of used and/or scrap tires from the Facility is properly manifested and that all manifests are properly completed and contain all required information.
3. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** April 25, 2012

**Date Green Card(s) Signed:** April 27, 2012

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

**Contact Information**

**TCEQ Attorneys:** Tammy L. Mitchell, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Scott Humphrey, Public Interest Counsel, (512) 239-6363

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

**TCEQ Regional Contact:** Hector Gonzales, Corpus Christi Regional Office, (361) 825-3100

**Respondent:** Ernesto E. Ramirez, 425 Pvt Rosie Road, Beeville, Texas 78102

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	28-Nov-2011	<b>Screening</b>	5-Dec-2011	<b>EPA Due</b>	
	<b>PCW</b>	22-Mar-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Ernesto E. Ramirez		
<b>Reg. Ent. Ref. No.</b>	RN106237480		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	43082	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-2248-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Danielle Porras
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$33,750</b>
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### 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>	<b>\$0</b>
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$1,363  
 Approx. Cost of Compliance: \$30,253  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$33,750</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$33,750</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$33,750</b>
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$33,750</b>
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**Screening Date** 5-Dec-2011

**Docket No.** 2011-2248-MSW-E

**PCW**

**Respondent** Ernesto E. Ramirez

*Policy Revision 3 (September 2011)*

**Case ID No.** 43082

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN106237480

**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> )	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)**

N/A

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

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 0%

Screening Date 5-Dec-2011

Docket No. 2011-2248-MSW-E

PCW

Respondent Ernesto E. Ramirez

Policy Revision 3 (September 2011)

Case ID No. 43082

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106237480

Media [Statute] Municipal Solid Waste

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 328.54(d), 328.57(c)(1) and (c)(2)

Violation Description Failed to identify all vehicles and equipment used for the collection and transportation of used or scrap tires or tire pieces on both sides and the rear of the vehicle. Specifically, there was a box trailer that was not identified at the Facility that is used to transport used and/or scrap tires. Failed to obtain a tire transporter registration prior to transporting used and/or scrap tires. Also, failed to use manifests to document each individual collection and delivery of used and/or scrap tires.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3 83 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$11,250

Three monthly events are recommended from the September 13, 2011 investigation to the December 5, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Reduction	
	Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$460

Violation Final Penalty Total \$11,250

This violation Final Assessed Penalty (adjusted for limits) \$11,250

## Economic Benefit Worksheet

**Respondent** Ernesto E. Ramirez  
**Case ID No.** 43082  
**Req. Ent. Reference No.** RN106237480  
**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	\$100	13-Sep-2011	7-Aug-2012	0.90	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	13-Sep-2011	7-Aug-2012	0.90	\$451	n/a	\$451
Other (as needed)	\$100	13-Sep-2011	7-Aug-2012	0.90	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to identify all vehicles and equipment used for the collection and transportation of used or scrap tires (\$100), to obtain a tire transporter registration for the Site (\$10,000), and to properly complete and maintain manifests for the used or scrap tires (\$100). The Dates Required are the investigation date and the Final Dates are the estimated dates of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,200

**TOTAL**

\$460

Screening Date 5-Dec-2011

Docket No. 2011-2248-MSW-E

PCW

Respondent Ernesto E. Ramirez

Policy Revision 3 (September 2011)

Case ID No. 43082

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106237480

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 unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 18,735 scrap tires (approximately 1,874 cubic yards) and approximately 18 cubic yards of household garbage, furniture, a computer, lawn furniture, and carpet were disposed of at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual			x		30.0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

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 \$17,500

\$7,500

Violation Events

Number of Violation Events 3 83 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$22,500

Three monthly events are recommended from the September 13, 2011 investigation to the December 5, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$904

Violation Final Penalty Total \$22,500

This violation Final Assessed Penalty (adjusted for limits) \$22,500

## Economic Benefit Worksheet

**Respondent** Ernesto E. Ramirez  
**Case ID No.** 43082  
**Req. Ent. Reference No.** RN106237480  
**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	\$20,053	13-Sep-2011	7-Aug-2012	0.90	\$904	n/a	\$904
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 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

\$20,053

**TOTAL**

\$904

# Compliance History

Customer/Respondent/Owner-Operator: CN603965567 Ernesto E. Ramirez Classification: Rating:  
Regulated Entity: RN106237480 Ramirez Property Beeville Classification: Site Rating:  
ID Number(s): MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER R14106237480  
Location: 425 PVT ROSIE RD, BEEVILLE, TX, 78102  
TCEQ Region: REGION 14 - CORPUS CHRISTI  
Date Compliance History Prepared: December 05, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 05, 2006 to December 05, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Danielle Porras Phone: (713) 767-3682

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## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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

## 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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ERNESTO E. RAMIREZ;  
RN106237480**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2011-2248-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 Ernesto E. Ramirez ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent operates a tire disposal facility located at 425 Pvt Rosie Road in Beeville, Bee County, Texas (the "Facility"). The Facility involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on September 13, 2011, a TCEQ Corpus Christi Regional Office investigator documented that Respondent:
  - a. Failed to identify all vehicles and equipment used for the collection and transportation of used or scrap tires or tire pieces on both sides and the rear of the vehicle (specifically, there was a box trailer that was not identified at the Facility that is used to transport used and/or scrap tires); failed to obtain a tire transporter registration prior to transporting used and/or scrap tires; and failed to use manifests to document each individual collection and delivery of used and/or scrap tires; and
  - b. Failed to prevent unauthorized disposal of MSW. Specifically, approximately 18,735 scrap tires (approximately 1,874 cubic yards) and approximately 18 cubic yards of household garbage, furniture, a computer, lawn furniture, and carpet were disposed of at the Facility.
3. Respondent received notice of the violations on or about November 27, 2011.
4. 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 Ernesto E. Ramirez" (the "EDPRP") in the TCEQ Chief Clerk's office on April 25, 2012.

5. By letter dated April 25, 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 April 27, 2012, as evidenced by the signature on the card.
6. 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 Finding of Fact No. 2.a., Respondent failed to identify all vehicles and equipment used for the collection and transportation of used or scrap tires or tire pieces on both sides and the rear of the vehicle, failed to obtain a tire transporter registration prior to transporting used and/or scrap tires, and failed to use manifests to document each individual collection and delivery of used and/or scrap tires, in violation of 30 TEX. ADMIN. CODE §§ 328.54(d), 328.57(c)(1), and 328.57(c)(2).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to prevent unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
4. As evidenced by Findings of Fact Nos. 4 and 5, 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).
5. As evidenced by Finding of Fact No. 6, 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.
6. 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.
7. An administrative penalty in the amount of thirty-three thousand seven hundred fifty dollars (\$33,750.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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 thirty-three thousand seven hundred fifty dollars (\$33,750.00) 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: Ernesto E. Ramirez; Docket No. 2011-2248-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:
    - i. Cease disposing of any additional MSW at the Facility, in accordance with 30 TEX. ADMIN. CODE § 330.15(c); and
    - ii. Cease transporting used and/or scrap tires until the required TCEQ registration is obtained, in accordance with 30 TEX. ADMIN. CODE §§ 328.55, 328.56 and 328.57.
  - b. Within 30 days after the effective date of this Order, Respondent shall:
    - i. Identify all vehicles and equipment used for the collection and transportation of used tires or scrap tires or tire pieces, in accordance with 30 TEX. ADMIN. CODE § 328.54(d);
    - ii. Remove all MSW, including but not limited to household garbage, discarded furniture, carpeting, used tires, scrap tires, and scrap tire pieces, from the Facility and dispose of it at an authorized facility;
    - iii. Obtain a tire transporter registration, in accordance with 30 TEX. ADMIN. CODE §§ 328.55, 328.56 and 328.57; and
    - iv. Develop and implement procedures to ensure that each individual collection and delivery of used and/or scrap tires from the Facility is properly manifested and that all manifests are properly completed and contain all required information, in accordance with 30 TEX. ADMIN. CODE § 328.57.

- c. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions 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:

Hector Gonzales, Waste Section Manager  
Texas Commission on Environmental Quality  
Corpus Christi Regional Office  
6300 Ocean Dr., Ste. 1200, Unit 5839  
Corpus Christi, Texas 78412-5839

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 Facility 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 TAMMY L. MITCHELL**

**STATE OF TEXAS**

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§  
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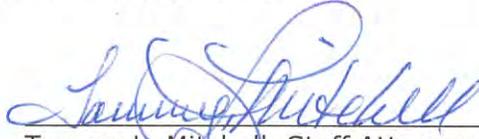
**COUNTY OF TRAVIS**

"My name is Tammy L. Mitchell. 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 Ernesto E. Ramirez" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on April 25, 2012.

The EDPRP was mailed to Respondent's last known address on April 25, 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 April 27, 2012, as evidenced by the signature on the card.

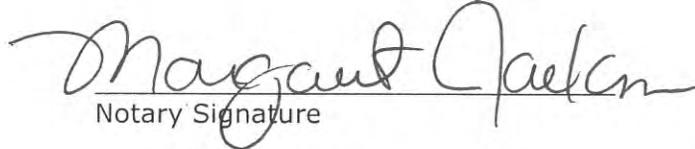
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Tammy L. Mitchell, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Tammy L. Mitchell, 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 17<sup>th</sup> day of July, A.D. 2012.



Notary Signature

