

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44674  
BOUNDARY VENTURES, INC.  
RN100916832  
Docket No. 2012-1554-MLM-E

**Order Type:**

Agreed Order

**Media:**

MLM – MSW and AIR

**Small Business:**

Yes

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

6254 Highway 71, Altair, Colorado County

**Type of Operation:**

oil and gas waste recycling plant

**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:** March 15, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$9,653

**Total Paid to General Revenue:** \$273

**Total Due to General Revenue:** \$9,380

Payment Plan: 35 payments of \$268 each

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN –Average  
Site/RN –Average By Default

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Investigation Information**

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

**Date(s) of Investigation:** June 13, 2012

**Date(s) of NOV(s):** October 20, 2011; May 3, 2012

**Date(s) of NOE(s):** July 19, 2012

**Violation Information**

1. Failed to obtain authorization to construct and operate a source of air emissions [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].
2. Failed to comply with the general prohibition on outdoor burning [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to maintain records to demonstrate compliance with applicable permit by rule conditions [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE §§ 106.8(c)(2)(B) and 106.146(1)].
4. Failed to prevent the unauthorized disposal of MSW (approx. 2 cu/yd) [30 TEX. ADMIN. CODE § 330.15(c)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately:
  - a. Cease any unauthorized outdoor burning activities and implement measures designed to prevent the recurrence of unauthorized outdoor burning activities at the Plant; and
  - b. Cease all unauthorized MSW disposal at the Plant and implement measures designed to prevent the recurrence of unauthorized MSW disposal, in accordance with 30 TEX. ADMIN. CODE § 330.15.
2. Within 30 days:
  - a. Remove all MSW from the Plant and dispose of it at an authorized facility;
  - b. Begin maintaining records of the maximum filtering velocity of the silos' fabric filters; and
  - c. Submit administratively complete permit applications for Pug Mill Nos. 2, 3, and 4.
3. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** January 8, 2013

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

**Settlement Date:** February 8, 2013

**Contact Information**

**TCEQ Attorneys:** Jeffrey Huhn, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Amy Swanholm, Public Interest Counsel, (512) 239-6363

**TCEQ SEP Coordinator:** N/A

**TCEQ Enforcement Coordinator:** Rebecca Johnson, Enforcement Division, (361) 825-3423

**TCEQ Regional Contact:** Jason Harris, Houston Regional Office, (713) 767-3609

**Respondent:** David Polston, President, Boundary Ventures, Inc., P.O. Box 1090, Columbus, Texas 78934-1090

**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>	23-Jul-2012		
	<b>PCW</b>	29-Nov-2012	<b>Screening</b>	6-Aug-2012
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Boundary Ventures, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100916832
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	44674	<b>No. of Violations</b>	4
<b>Docket No.</b>	2012-1554-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Municipal Solid Waste	<b>Enf. Coordinator</b>	Rebecca Johnson
		<b>EC's Team</b>	Enforcement Team 5
<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>	\$8,750
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	10.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b>	\$875

<b>Notes</b>	Enhancement for two NOVs with same/similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$299	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,254	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$9,625
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.3%	<b>Adjustment</b>	\$28
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to capture the avoided cost of compliance associated with Violation No. 2.
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<b>Final Penalty Amount</b>	\$9,653
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$9,653
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$9,653
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**Screening Date** 6-Aug-2012

**Docket No.** 2012-1554-MLM-E

**PCW**

**Respondent** Boundary Ventures, Inc.

*Policy Revision 3 (September 2011)*

**Case ID No.** 44674

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN100916832

**Media [Statute]** Air

**Enf. Coordinator** Rebecca Johnson

### 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> )	2	10%
	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)** 10%

**>> 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 two NOVs with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 10%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 10%

<b>Screening Date</b>	6-Aug-2012	<b>Docket No.</b>	2012-1554-MLM-E	<b>PCW</b>
<b>Respondent</b>	Boundary Ventures, Inc.			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44674			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN100916832			
<b>Media [Statute]</b>	Air			
<b>Enf. Coordinator</b>	Rebecca Johnson			

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

**Violation Description**

Failed to obtain authorization to construct and operate a source of air emissions. Specifically, during the June 13, 2012 investigation, it was documented that three new pug mills (Pug Mill Nos. 2, 3, and 4) were constructed and operated without authorization.

**Base Penalty**

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

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Four quarterly events are recommended from the date operations were documented to have commenced (September 14, 2011) to the screening date (August 6, 2012).

**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**

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

**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** Boundary Ventures, Inc.  
**Case ID No.** 44674  
**Reg. Ent. Reference No.** RN100916832  
**Media** Air  
**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	\$2,500	14-Sep-2011	15-Aug-2013	1.92	\$240	n/a	\$240
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated expense to obtain authorization for the new pug mills. The Date Required is the earliest documented date of non-compliance. The Final Date is the projected compliance date.

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$2,500

**TOTAL** \$240

**Screening Date** 6-Aug-2012  
**Respondent** Boundary Ventures, Inc.  
**Case ID No.** 44674  
**Reg. Ent. Reference No.** RN100916832  
**Media [Statute]** Air  
**Enf. Coordinator** Rebecca Johnson

**Docket No.** 2012-1554-MLM-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number**

**Rule Cite(s)**

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

**Violation Description**

Failed to comply with the general prohibition on outdoor burning. Specifically, during the June 13, 2012 investigation, it was documented that approximately two cubic yards of miscellaneous trash and debris were being burned.

**Base Penalty**

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

**OR**

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

**Percent**

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

**Adjustment**

**Violation Events**

Number of Violation Events

Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended.

**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**

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

**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** Boundary Ventures, Inc.  
**Case ID No.** 44674  
**Reg. Ent. Reference No.** RN100916832  
**Media** Air  
**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	\$250	13-Jun-2012	15-Apr-2013	0.84	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated expense to implement measures designed to ensure compliance with the prohibition of outdoor burning. The Date Required is the investigation date. The Final Date is the projected compliance date.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$27	13-Jun-2012	6-Aug-2012	1.07	\$1	\$27	\$28

**Notes for AVOIDED costs** Estimated avoided cost for not properly disposing of approximately two cubic yards of waste material observed on June 13, 2012, at a disposal fee of \$13.42 per yard. The date required is the investigation date. The final date is the date the case was screened.

Approx. Cost of Compliance \$277

**TOTAL** \$39



**Screening Date** 6-Aug-2012  
**Respondent** Boundary Ventures, Inc.  
**Case ID No.** 44674  
**Reg. Ent. Reference No.** RN100916832  
**Media [Statute]** Air  
**Enf. Coordinator** Rebecca Johnson

**Docket No.** 2012-1554-MLM-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code §§ 106.8(c)(2)(B) and 106.146(1) and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to maintain records to demonstrate compliance with applicable permit by rule conditions. Specifically, during the June 13, 2012 investigation, it was documented that records were not being maintained to demonstrate compliance with the maximum filtering velocity of the silos' fabric filters.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

100% of the rule requirement was not met.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 1 54 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$1,250

One single event is recommended.

**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** \$1,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$8

**Violation Final Penalty Total** \$1,379

**This violation Final Assessed Penalty (adjusted for limits)** \$1,379

## Economic Benefit Worksheet

**Respondent** Boundary Ventures, Inc.  
**Case ID No.** 44674  
**Reg. Ent. Reference No.** RN100916832  
**Media** Air  
**Violation No.** 3

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	\$200	13-Jun-2012	15-Apr-2013	0.84	\$8	n/a	\$8
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated expense to implement measures and procedures to ensure compliance with record keeping requirements. The Date Required is the investigation date. The Final Date is the projected compliance date.

### Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$200

**TOTAL** \$8

**Screening Date** 6-Aug-2012  
**Respondent** Boundary Ventures, Inc.  
**Case ID No.** 44674  
**Reg. Ent. Reference No.** RN100916832  
**Media [Statute]** Air  
**Enf. Coordinator** Rebecca Johnson

**Docket No.** 2012-1554-MLM-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 330.15(c)

**Violation Description**

Failed to prevent the unauthorized disposal of municipal solid waste ("MSW"). Specifically, the Respondent disposed of approximately two cubic yards of MSW at the Plant.

**Base Penalty**

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

**OR**

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

**Percent**

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels protective of human health or environmental receptors.

**Adjustment**

**Violation Events**

Number of Violation Events

Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended.

**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**

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

**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** Boundary Ventures, Inc.  
**Case ID No.** 44674  
**Reg. Ent. Reference No.** RN100916832  
**Media** Air  
**Violation No.** 4

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	\$250	13-Jun-2012	15-Apr-2013	0.84	\$10	n/a	\$10
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$27	13-Jun-2012	15-Apr-2013	0.84	\$1	n/a	\$1

**Notes for DELAYED costs**  
 Estimated cost to properly dispose of approximately two cubic yards of waste at an authorized landfill and to implement measures designed to prevent the recurrence of unauthorized MSW disposal. The Date Required is the investigation date. The Final Date is the projected compliance date.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$277

**TOTAL** \$12

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603324229 Boundary Ventures, Inc. Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN100916832 ALTAIR RECYCLING FACILITY Classification: AVERAGE BY DEFAULT Site Rating: 3.01  
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER CR0124M  
AIR NEW SOURCE PERMITS REGISTRATION 46001  
Location: 6254 HWY 71 ALTAIR, TX 77412  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: August 20, 2012  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 20, 2007 to August 20, 2012  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Rebecca Johnson Phone: (361) 825-3423

## 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. If **YES**, 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.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

### Date: 10/20/2011 (955841)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter E 106.146(4)  
30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
5C THSC Chapter 382 382.085(b)

Description: Failure to apply dust controlling agents to all in plant roads (CATEGORY B19.g.1 violation).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.4(c)  
30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
5C THSC Chapter 382 382.085(b)

Description: Failure to operate emissions equipment in good working conditions during operation of the facility (CATEGORY B19.g.1 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(1)  
30 TAC Chapter 116, SubChapter B 116.110(a)(4)  
5C THSC Chapter 382 382.085(b)

Description: Failure to maintain a copy of the Permit by Rule (PBR) Registration No. 46001 onsite. (CATEGORY B3 violation).

### Date: 05/03/2012 (981162)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(4)  
5C THSC Chapter 382 382.085(b)

Description: Failure to make records available in a reviewable format at the request of personnel from the commission. (Category B3).

- 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  
BOUNDARY VENTURES, INC.;  
RN100916832**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2012-1554-MLM-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Boundary Ventures, Inc. ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates an oil and gas waste recycling plant located at 6254 Highway 71 in Altair, Colorado County, Texas (the "Plant"). The Plant involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of nine thousand six hundred fifty-three dollars (\$9,653.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two hundred seventy-three dollars (\$273.00) of the administrative penalty. The remaining amount of nine thousand three hundred eighty dollars (\$9,380.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of two hundred sixty-eight dollars (\$268.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall

become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

1. During an investigation conducted on June 13, 2012, a TCEQ Houston Regional Office investigator documented that Respondent:
  - a. Failed to obtain authorization to construct and operate a source of air emissions, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b). Specifically, three new pug mills (Pug Mill Nos. 2, 3, and 4) were constructed and operated at the Plant without authorization;
  - b. Failed to to comply with the general prohibition on outdoor burning, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, approximately two cubic yards of miscellaneous trash and debris were being burned at the Plant;
  - c. Failed to maintain records to demonstrate compliance with applicable permit by rule conditions, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE §§ 106.8(c)(2)(B) and 106.146(1). Specifically, records were not being maintained to demonstrate compliance with the maximum filtering velocity of the silos' fabric filters; and
  - d. Failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c). Specifically, Respondent disposed of approximately two cubic yards of MSW at the Plant.
2. Respondent received notice of the violations on or about July 24, 2012.



### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Boundary Ventures, Inc., Docket No. 2012-1554-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

2. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Respondent shall:
    - i. Cease any unauthorized outdoor burning activities and implement measures designed to prevent the recurrence of unauthorized outdoor burning activities at the Plant; and
    - ii. Cease all unauthorized MSW disposal at the Plant and implement measures designed to prevent the recurrence of unauthorized MSW disposal, in accordance with 30 TEX. ADMIN. CODE § 330.15.
  - b. Within 30 days after the effective date of this Agreed Order, Respondent shall:
    - i. Remove all MSW from the Plant and dispose of it at an authorized facility;
    - ii. Begin maintaining records of the maximum filtering velocity of the silos' fabric filters, in accordance with 30 TEX. ADMIN. CODE § 106.146(1); and
    - iii. Submit administratively complete permit applications for Pug Mill Nos. 2, 3, and 4, in accordance with 30 TEX. ADMIN. CODE § 116.110(a) to:

Air Permits Division, MC 162  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests, or by any other deadline specified in writing.

- c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions No. 2.a. and 2.b. The certifications 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:

Jason Harris, Air Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Avenue  
Houston, Texas 77023-1486

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed 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.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director


  
\_\_\_\_\_  
Date


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

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

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

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

  
\_\_\_\_\_  
Signature - David Polston, President  
Boundary Ventures, Inc.

  
\_\_\_\_\_  
Date