

**Executive Summary – Enforcement Matter – Case No. 42379
Custom Crates & Pallets Management, L.L.C.
RN105978712
Docket No. 2012-1739-AIR-E**

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Custom Crates and Pallets, 1501 Westway Boulevard, Canutillo, El Paso County

Type of Operation:

Pallet construction and refurbishment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 22, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,125

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,563

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$1,562

Name of SEP: Texas Association of Resource Conservation and Development Areas,

Inc., Abandoned Tire Clean-Up

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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RN105978712
Docket No. 2012-1739-AIR-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: June 28, 2012
Date(s) of NOE(s): August 2, 2012

Violation Information

Failed to prevent dust emissions from causing or contributing to nuisance conditions on surrounding properties [30 TEX. ADMIN. CODE § 101.4, Agreed Order Docket No. 2011-1521-AIR-E Ordering Provisions No. 2.a., and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By November 21, 2012, Respondent implemented measures to prevent sawdust from impacting off-property receptors.

Technical Requirements:

The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jessica Schildwachter, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-2617; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Adolfo Torres, Jr., President, Custom Crates & Pallets Management, L.L.C., P.O. Box 1038, Canutillo, Texas 79835

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Oscar E. Garcia, Vice President, Custom Crates & Pallets Management, L.L.C., P.O. Box
1038, Canutillo, Texas 79835
Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-1739-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Custom Crates & Pallets Management, L.L.C.
Payable Penalty Amount: Three Thousand One Hundred Twenty-Five Dollars (\$3,125)
SEP Amount: One Thousand Five Hundred Sixty-Two Dollars (\$1,562)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Abandoned Tire Clean-Up
Location of SEP: El Paso County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Texas Association of Resource Conservation and Development Areas, Inc.** to be used for the *Abandoned Tire Cleanups Program* as set forth in an agreement between the Third-Party Recipient and TCEQ. The Third-Party Recipient shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

Custom Crates & Pallets Management, L.L.C.
Agreed Order - Attachment A

Respondent certifies that there is no prior commitment to make this contribution and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient named above and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Custom Crates & Pallets Management, L.L.C.
Agreed Order - Attachment A

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	13-Aug-2012	Screening	22-Aug-2012	EPA Due	
	PCW	27-Nov-2012				

RESPONDENT/FACILITY INFORMATION			
Respondent	Custom Crates & Pallets Management, L.L.C.		
Reg. Ent. Ref. No.	RN105978712		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42379	No. of Violations	1
Docket No.	2012-1739-AIR-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jessica Schildwachter
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 25.0% Enhancement **Subtotals 2, 3, & 7** **\$625**

Notes: Enhancement for one NOV with same/similar violations and one order with denial of liability.

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 \$34
 Approx. Cost of Compliance \$1,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$3,125**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$3,125**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$3,125**

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

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$3,125**

Screening Date 22-Aug-2012

Docket No. 2012-1739-AIR-E

PCW

Respondent Custom Crates & Pallets Management, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 42379

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105978712

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

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>)	1	20%
	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) 25%

>> **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 NOV with same/similar violations and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 25%

Screening Date 22-Aug-2012

Docket No. 2012-1739-AIR-E

PCW

Respondent Custom Crates & Pallets Management, L.L.C.

Policy Revision 3 (September 2011)

Case ID No. 42379

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105978712

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.4, Agreed Order Docket No. 2011-1521-AIR-E Ordering Provisions No. 2.a., and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description Failed to prevent dust emissions from causing or contributing to nuisance conditions on surrounding properties. Specifically, TCEQ staff documented that appropriate measures to prevent sawdust from impacting off-property receptors along Tom Mays Drive and Westway Boulevard in Canutillo, Texas have not been taken as required by the Agreed Order Docket No. 2011-1521-AIR-E.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	5.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment was exposed to insignificant amounts of pollutants.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 157 Number of violation days

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

Violation Base Penalty \$2,500

Two quarterly events are recommended from the effective date of Agreed Order Docket No. 2011-1521-AIR-E, March 18, 2012, through case screening, August 22, 2012.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$34

Violation Final Penalty Total \$3,125

This violation Final Assessed Penalty (adjusted for limits) \$3,125

Economic Benefit Worksheet

Respondent Custom Crates & Pallets Management, L.L.C.

Case ID No. 42379

Reg. Ent. Reference No. RN105978712

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	18-Mar-2012	21-Nov-2012	0.68	\$34	n/a	\$34

Notes for DELAYED costs

Estimated cost for additional oversight and management practices designed to ensure dust emissions are prohibited from leaving the Plant. Date Required is the effective date of TCEQ Agreed Order Docket No. 2011-1521-AIR-E and Final Date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$34

Compliance History Report

Customer/Respondent/Owner-Operator: CN603714429 Custom Crates & Pallets Management, L.L.C Classification: AVERAGE Rating: 1.00

Regulated Entity: RN105978712 CUSTOM CRATES AND PALLETS Classification: AVERAGE Site Rating: 1.00

ID Number(s): STORMWATER PERMIT TXR05AU76

Location: 1501 WESTWAY BLVD, CANUTILLO, TX, 79835

TCEQ Region: REGION 06 - EL PASO

Date Compliance History Prepared: August 22, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 22, 2007 to August 22, 2012

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

Name: James Nolan Phone: (512) 239-6634

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.
- Effective Date: 03/18/2012 ADMINORDER 2011-1521-AIR-E
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THSC Chapter 382 382.085(a)
5C THSC Chapter 382 382.085(b)
Description: Failed to prevent dust emissions from causing or contributing to nuisance conditions on surrounding properties, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), as documented during an investigation conducted on July 22, 2011. Specifically, TCEQ staff documented sawdust leaving the Respondent's property and impacting nearby homes and Tom Mays Drive on July 22, 2011.
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|-----------|
| 1 | 08/07/2012 | (1016026) |
| 2 | 12/14/2010 | (881219) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 08/15/2010 (830520)
Self NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THSC Chapter 382 382.085(b)
Description: Failure to prevent accumulated sawdust from leaving the property, thus creating a windblown nuisance. At the time of the investigation, the investigator noted small accumulations of sawdust along Tom Mays Drive.
Self NO Classification: Minor

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to obtain proper stormwater authorization or exemption. All Timber Products industries (SIC 2448) within Texas are required to address facility stormwater management by either (a) obtaining permit coverage for stormwater discharges; (b) obtain exemption from coverage via a NEC; (c) demonstrate that no activities described within TXR050000 are occurring on site.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CUSTOM CRATES & PALLETS
MANAGEMENT, L.L.C.
RN105978712**

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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2012-1739-AIR-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Custom Crates & Pallets Management, L.L.C. (“Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a pallet construction and refurbishment facility at 1501 Westway Boulevard in Canutillo, El Paso County, Texas (the “Plant”).

2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation on June 28, 2012, TCEQ staff documented that the Respondent failed to prevent dust emissions from causing or contributing to nuisance conditions on surrounding properties. Specifically, TCEQ staff documented that appropriate measures to prevent sawdust from impacting off-property receptors along Tom Mays Drive and Westway Boulevard in Canutillo, Texas have not been taken as required by Agreed Order Docket No. 2011-1521-AIR-E.
4. The Respondent received notice of the violations on August 8, 2012.
5. The Executive Director recognizes that by November 21, 2012, the Respondent implemented measures to prevent sawdust from impacting off-property receptors.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent dust emissions from causing or contributing to nuisance conditions on surrounding properties, in violation of 30 TEX. ADMIN. CODE § 101.4, Agreed Order Docket No. 2011-1521-AIR-E Ordering Provisions No. 2.a., and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Three Thousand One Hundred Twenty-Five Dollars (\$3,125) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid One Thousand Five Hundred Sixty-Three Dollars (\$1,563) of the administrative penalty. One Thousand Five Hundred Sixty-Two Dollars (\$1,562) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Three Thousand One Hundred Twenty-Five Dollars (\$3,125) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Custom Crates & Pallets Management, L.L.C., Docket No. 2012-1739-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4, One Thousand Five Hundred Sixty-Two Dollars (\$1,562) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the

Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. 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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

Custom Crates & Pallets Management, L.L.C.
DOCKET NO. 2012-1739-AIR-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Davis Jr
For the Executive Director

3/3/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Custom Crates & Pallets Management, L.L.C. I am authorized to agree to the attached Agreed Order on behalf of Custom Crates & Pallets Management, L.L.C., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Custom Crates & Pallets Management, L.L.C. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Oscar E. Garcia
Signature

01/09/2013
Date

Oscar E. Garcia
Name (Printed or typed)
Authorized Representative of
Custom Crates & Pallets Management, L.L.C.

Vice President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.

ORIGINAL

Attachment A
Docket Number: 2012-1739-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Custom Crates & Pallets Management, L.L.C.
Payable Penalty Amount:	Three Thousand One Hundred Twenty-Five Dollars (\$3,125)
SEP Amount:	One Thousand Five Hundred Sixty-Two Dollars (\$1,562)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”) - Abandoned Tire Clean-Up
Location of SEP:	El Paso County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Texas Association of Resource Conservation and Development Areas, Inc.** to be used for the *Abandoned Tire Cleanups Program* as set forth in an agreement between the Third-Party Recipient and TCEQ. The Third-Party Recipient shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

Custom Crates & Pallets Management, L.L.C.
Agreed Order - Attachment A

Respondent certifies that there is no prior commitment to make this contribution and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient named above and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Custom Crates & Pallets Management, L.L.C.
Agreed Order - Attachment A

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the “Clean Texas” (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.