

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43802
Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn
RN105871875
Docket No. 2012-0623-MLM-E

Order Type:

Agreed Order

Media:

MLM (MSW and Used Oil)

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

6237 Highway 77, Odem, San Patricio County

Type of Operation:

tire transporter and processing 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: April 12, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,075

Total Paid to General Revenue: \$525

Total Due to General Revenue: \$11,550

Payment Plan: 35 payments of \$330 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average (Both Respondents)
Site/RN – Average

Major Source: Yes (PCW 1); No (PCWs 2 and 3)

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 24, 2011; January 10, 2012

Date(s) of NOV(s): April 21, 2011

Date(s) of NOE(s): March 9, 2012

Violation Information

1. Failed to identify any vehicle or trailer used to transport used or scrap tires or tire pieces on both sides and the rear of the vehicle with the name and place of business of the transporter and the Commission registration number [30 TEX. ADMIN. CODE § 328.54(d)].
2. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground (or weight equivalent tire pieces or any combination thereof) [30 TEX. ADMIN. CODE §§ 328.55, 328.60(a) and 328.63(c)].
3. Failed to prevent the unauthorized disposal of municipal solid waste ("MSW") (approx. 150 cu/yds of construction and demolition waste) [30 TEX. ADMIN. CODE § 330.15(c)].
4. Failed to prevent the storage, processing, or disposal of used oil filters in a manner that results in the discharge of oil into soil or water [30 TEX. ADMIN. CODE § 328.23(a)].
5. Failed to perform cleanup action upon detection of a release of used oil (approx. 100 sq/ft of oil-stained soil) [40 C.F.R. § 279.22(d) and 30 TEX. ADMIN. CODE § 324.6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Properly identified the vehicles used to transport used or scrap tires or tire pieces at the Facility on May 15, 2012, and July 1, 2012.
2. Properly disposed of approximately 14,000 used and scrap tires at an authorized facility between October 26, 2011, and July 9, 2012.
3. Properly disposed of approximately 150 cubic yards of construction and demolition waste at an authorized facility on July 18, 2012, and September 26, 2012.

Technical Requirements:

1. Within 30 days:
 - a. Begin properly storing, processing and disposing of all used oil filters and material containing used oil;
 - b. Develop and implement procedures to ensure proper used oil management and cleanup of spills at the Facility; and
 - c. Remove and dispose of contaminated oil-stained soil at an authorized facility;
2. Within 45 days submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: August 21, 2012
Date Answer(s) Filed: September 27, 2012
SOAH Referral Date: October 30, 2012
Hearing Date(s): Preliminary hearing: December 13, 2012
Evidentiary hearing: April 25, 2013 (scheduled)
Settlement Date: March 18, 2013

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Judy Kluge, Enforcement Division, (817) 588-5933
TCEQ Regional Contact: Hector Gonzales, Corpus Christi Regional Office,
Respondent: Brandon Menn and Celina Menn, 1950 East Corral Avenue, Kingsville, Texas 78363
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	12-Mar-2012	Screening	15-Mar-2012	EPA Due	
	PCW	15-Aug-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn
Reg. Ent. Ref. No.	RN105871875
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	43802	No. of Violations	2
Docket No.	2012-0623-MLM-E	Order Type	1660
Media Program(s)	Waste Tires	Government/Non-Profit	No
Multi-Media	MSW/Used Oil Filter/Used Oil	Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,000
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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.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$500
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Notes: Enhancement for one NOV with same or similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$830
 Approx. Cost of Compliance: \$10,100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$10,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,500
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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.

PAYABLE PENALTY	\$10,500
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Screening Date 15-Mar-2012 **Docket No.** 2012-0623-MLM-E
Respondent Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn
Case ID No. 43802
Reg. Ent. Reference No. RN105871875
Media [Statute] Waste Tires
Enf. Coordinator Judy Kluge

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

Screening Date	15-Mar-2012	Docket No.	2012-0623-MLM-E	PCW
Respondent	Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43802			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105871875			
Media [Statute]	Waste Tires			
Enf. Coordinator	Judy Kluge			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 328.54(d)

Violation Description

Failed to identify any vehicle or trailer used to transport used or scrap tires or tire pieces on both sides and the rear of the vehicle with the name and place of business of the transporter and the Commission registration number.

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

<i>mark only one with an x</i>	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 from the January 10, 2012 investigation to the March 15, 2012 screening date.

Good Faith Efforts to Comply

Reduction

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

Notes

The Respondents do 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 Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn
Case ID No. 43802
Reg. Ent. Reference No. RN105871875
Media Violation No. Waste Tires
 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	24-Feb-2011	16-Oct-2012	1.64	\$8	n/a	\$8

Notes for DELAYED costs
 Estimated cost to properly identify any vehicle or trailer used to transport used or scrap tires or tire pieces. The date required is the initial investigation date and the final date is the expected 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 \$100

TOTAL \$8

Screening Date	15-Mar-2012	Docket No.	2012-0623-MLM-E	PCW
Respondent	Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43802			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105871875			
Media [Statute]	Waste Tires			
Enf. Coordinator	Judy Kluge			

Violation Number

Rule Cite(s)

Violation Description

Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground (or weight equivalent tire pieces or any combination thereof). Specifically, approximately 14,000 used and scrap tires were stored on the ground at the Facility.

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>

Matrix Notes

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn
Case ID No. 43802
Reg. Ent. Reference No. RN105871875
Media Waste Tires
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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	\$10,000	24-Feb-2011	16-Oct-2012	1.64	\$822	\$822
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Facility as a scrap tire storage facility. The date required is the initial investigation date and the final date is the expected 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

\$10,000

TOTAL

\$822



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Mar-2012			
	PCW	15-Aug-2012	Screening	15-Mar-2012	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn				
Reg. Ent. Ref. No.	RN105871875				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	5	No. of Violations	1
Docket No.	2012-0623-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Used Oil Filter/Used Oil/Waste Tires	Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$50**

Notes: Enhancement for one NOV with same or similar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondents do 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: \$150
 Approx. Cost of Compliance: \$1,920
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,050**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$1,050**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,050**

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

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

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$1,050**

Screening Date	15-Mar-2012	Docket No.	2012-0623-MSW-E	PCW
Respondent	Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	5			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105871875			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Judy Kluge			

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	*Please Select	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	*Please Select	0%
	Participation in a voluntary pollution reduction program	*Please Select	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	*Please Select	0%

Adjustment Percentage (Subtotal 2) 5%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

Screening Date	15-Mar-2012	Docket No.	2012-0623-MSW-E	PCW
Respondent	Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	5			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105871875			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Judy Kluge			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	Percent <input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn
Case ID No. 5
Reg. Ent. Reference No. RN105871875
Media Violation No. Municipal Solid Waste
 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,920	24-Feb-2011	16-Sep-2012	1.56	\$150	n/a	\$150
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to dispose of the waste at an authorized facility. The date required is the date of the initial investigation and the final date is the expected 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	\$1,920	TOTAL	\$150
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	12-Mar-2012	Screening	15-Mar-2012	EPA Due	
	PCW	15-Aug-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn		
Reg. Ent. Ref. No.	RN105871875		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43802	No. of Violations	2
Docket No.	2012-0623-MLM-E	Order Type	1660
Media Program(s)	Used Oil Filter/Used Oil	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste/Waste Tires	Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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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.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$25
Notes	Enhancement for one NOV with same or similar violations.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondents do 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	\$205	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,500		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$525
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
	Final Penalty Amount \$525

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$525
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$525
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Screening Date 15-Mar-2012 **Docket No.** 2012-0623-MLM-E
Respondent Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn
Case ID No. 43802
Reg. Ent. Reference No. RN105871875
Media [Statute] Used Oil Filter/Used Oil
Enf. Coordinator Judy Kluge

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

Screening Date	15-Mar-2012	Docket No.	2012-0623-MLM-E	PCW
Respondent	Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn		Policy Revision 2 (September 2002)	
Case ID No.	43802	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN105871875			
Media [Statute]	Used Oil Filter/Used Oil			
Enf. Coordinator	Judy Kluge			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm				Percent <input type="text" value="10%"/>
	Release	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"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn
Case ID No. 43802
Reg. Ent. Reference No. RN105871875
Media Violation No. Used Oil Filter/Used Oil
 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	\$1,000	24-Feb-2011	16-Oct-2012	1.64	\$82	n/a	\$82
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to implement procedures to prevent used oil from contaminating the soil at the Facility and to remove any affected soil and dispose of it at an authorized facility. The date required is the initial investigation date and the final date is the expected 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	\$1,000	TOTAL	\$82
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Screening Date 15-Mar-2012 **Docket No.** 2012-0623-MLM-E **PCW**
Respondent Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn *Policy Revision 2 (September 2002)*
Case ID No. 43802 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105871875
Media [Statute] Used Oil Filter/Used Oil
Enf. Coordinator Judy Kluge

Violation Number

Rule Cite(s)

Violation Description Failed to perform cleanup action upon detection of a release of used oil. Specifically, the investigator observed approximately 100 square feet of oil-stained soil that had not been cleaned up.

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

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

Adjustment

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 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 from the January 10, 2012 investigation to the March 15, 2012 screening date.

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 type="text" value="x"/>	(mark with x)

Notes The Respondents do 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 Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn
Case ID No. 43802
Reg. Ent. Reference No. RN105871875
Media Used Oil Filter/Used Oil
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,500	24-Feb-2011	16-Oct-2012	1.64	\$123	n/a	\$123
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 and properly dispose of the contaminated soil. The date required is the initial investigation date and the final date is the expected 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

\$1,500

TOTAL

\$123

Compliance History Report

Customer/Respondent/Owner-Operator: CN603621285 Celina Menn Classification: AVERAGE Rating: 13.00
 Regulated Entity: RN105871875 B & C TIRE DISPOSAL Classification: AVERAGE Site Rating: 13.00
 ID Number(s): TIRES REGISTRATION 6200612
 Location: 6237 HIGHWAY 77, ODEM, TX, 78370
 TCEQ Region: REGION 14 - CORPUS CHRISTI
 Date Compliance History Prepared: March 14, 2012
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: March 14, 2007 to March 14, 2012
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
 Name: Judy Kluge Phone: (817) 588-5825

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.)
1 03/09/2012 (987536)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	04/21/2011	(906914)	CN603621285
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 328, SubChapter F 328.54(d)		
Description:	Failure 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.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 328, SubChapter F 328.55 30 TAC Chapter 328, SubChapter F 328.60		
Description:	Failure to obtain a scrap tire storage site registration from the executive director pursuant to 328.60(a) of this title (relating to Registration Requirements, prior to storage activities).		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 330, SubChapter A 330.15(c)		
Description:	Failure to prevent the unauthorized disposal of municipal solid waste without commission authorization.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 328, SubChapter D 328.23(a) TWC Chapter 26 26.121		
Description:	Failure to store, process, or dispose of a used oil filter in a manner that result in the discharge of oil into soil or water.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 324, SubChapter A 324.6 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(d)		
Description:	Failure to perform the cleanup steps as required per 40 CFR 279.22 upon the detection of a release of used oil to the environment.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 324, SubChapter A 324.6 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)		
Description:	Failure to comply with the used oil labeling requirements.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 328, SubChapter F 328.63(c)		
Description:	Failure to maintain a copy of the Commission registration notice at the designated place of business.		
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History Report

Customer/Respondent/Owner-Operator:	CN604279323	Brandon Menn	Classification: AVERAGE	Rating: 13.00
Regulated Entity:	RN105871875	B & C TIRE DISPOSAL	Classification: AVERAGE	Site Rating: 13.00
ID Number(s):		TIRES	REGISTRATION	6200612
Location:	6237 HIGHWAY 77, ODEM, TX, 78370			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	March 14, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 14, 2007 to March 14, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:				
Name:	Judy Kluge	Phone:	(817) 588-5825	

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.)
1 03/09/2012 (987536)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	04/21/2011	(906914)	CN603621285
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 328, SubChapter F 328.54(d)		
Description:	Failure 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.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 328, SubChapter F 328.55 30 TAC Chapter 328, SubChapter F 328.60		
Description:	Failure to obtain a scrap tire storage site registration from the executive director pursuant to 328.60(a) of this title (relating to Registration Requirements, prior to storage activities).		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 330, SubChapter A 330.15(c)		
Description:	Failure to prevent the unauthorized disposal of municipal solid waste without commission authorization.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 328, SubChapter D 328.23(a) TWC Chapter 26 26.121		
Description:	Failure to store, process, or dispose of a used oil filter in a manner that result in the discharge of oil into soil or water.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 324, SubChapter A 324.6 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(d)		
Description:	Failure to perform the cleanup steps as required per 40 CFR 279.22 upon the detection of a release of used oil to the environment.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 324, SubChapter A 324.6 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)		
Description:	Failure to comply with the used oil labeling requirements.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 328, SubChapter F 328.63(c)		
Description:	Failure to maintain a copy of the Commission registration notice at the designated place of business.		
 - 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
BRANDON MENN D/B/A
B & C TIRE DISPOSAL, AND
CELINA MENN;
RN105871875**

**§
§
§
§
§
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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-0623-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 Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn ("Respondents") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 371. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents together stipulate that:

1. Celina Menn owns and Brandon Menn owns and operates a tire transporter and processing facility located at 6237 Highway 77 in Odem, San Patricio 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, and the management and/or the disposal of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
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 371 and TCEQ rules.
3. The Executive Director and Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondents are 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 Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of twelve thousand seventy-five dollars (\$12,075.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondents paid five hundred twenty-five dollars (\$525.00) of the administrative penalty. The remaining amount of eleven thousand five hundred fifty dollars (\$11,550.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred thirty dollars (\$330.00) 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 Respondents fail 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, Respondents' failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondents 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 Respondents 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 Respondents have 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.
11. The Executive Director recognizes that Respondents implemented the following corrective measures at the Facility:
 - a. Properly identified the vehicles used to transport used or scrap tires or tire pieces at the Facility on May 15, 2012, and July 1, 2012 (Allegation No. 1.a.);
 - b. Properly disposed of approximately 14,000 used and scrap tires at an authorized facility between October 26, 2011, and July 9, 2012 (Allegation No. 1.b.); and
 - c. Properly disposed of approximately 150 cubic yards of construction and demolition waste at an authorized facility on July 18, 2012, and September 26, 2012 (Allegation No. 1.c.).

II. ALLEGATIONS

1. During investigations conducted on February 24, 2011, and January 10, 2012, a TCEQ Corpus Christi Regional Office investigator documented that Respondents:
 - a. Failed to identify any vehicle or trailer used to transport used or scrap tires or tire pieces on both sides and the rear of the vehicle with the name and place of business of the transporter and the Commission registration number, in violation of 30 TEX. ADMIN. CODE § 328.54(d);
 - b. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground (or weight equivalent tire pieces or any combination thereof), in violation of 30 TEX. ADMIN. CODE §§ 328.55, 328.60(a) and 328.63(c). Specifically, approximately 14,000 used and scrap tires were stored on the ground at the Facility;

- c. Failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c). Specifically, approximately 150 cubic yards of construction and demolition waste was discarded at the Facility;
 - d. Failed to prevent the storage, processing, or disposal of used oil filters in a manner that results in the discharge of oil into soil or water, in violation of 30 TEX. ADMIN. CODE § 328.23(a). Specifically, the investigator observed oil-stained soil beneath a drum labeled to contain used oil filters; and
 - e. Failed to perform cleanup action upon detection of a release of used oil, in violation of 40 C.F.R. § 279.22(d) and 30 TEX. ADMIN. CODE § 324.6. Specifically, the investigator observed approximately 100 square feet of oil-stained soil that had not been cleaned up.
2. Respondents received notice of the violations on or about April 26, 2011, and March 14, 2012.

III. DENIALS

Respondents generally deny each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondents pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondents' 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: Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn, Docket No. 2012-0623-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. Within 30 days after the effective date of this Agreed Order, Respondents shall:
 - a. Begin properly storing, processing and disposing of all used oil filters and material containing used oil, in accordance with 30 TEX. ADMIN. CODE § 328.23(c) (Allegation No. 1.d.);
 - b. Develop and implement procedures to ensure proper used oil management and cleanup of spills at the Facility (Allegation No. 1.e.); and
 - c. Remove and dispose of contaminated oil-stained soil at an authorized facility (Allegation No. 1.e.).
 - d. Within 45 days after the effective date of this Agreed Order, Respondents shall submit written to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. 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."

Respondents shall submit the written certifications 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
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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 Respondents. Respondents are ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondents fail 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, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive 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 Respondents 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 Respondents, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondents, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

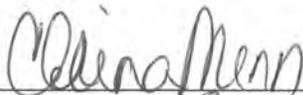
May 3, 2013
Date

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 Brandon Menn d/b/a B & C Tire Disposal, and Celina Menn, as applicable, 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:

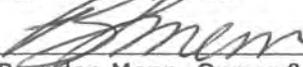
- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;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



Celina Menn, Owner

3/18/13
Date



Brandon Menn, Owner & Operator

3/18/13
Date