

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 46090
Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina d/b/a Jack's Tire Service
RN105726681
Docket No. 2013-0257-MLM-E

Order Type:

Default Order

Media:

MLM: Used Oil and Scrap Tires

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

15650 South IH-35, Dilley, Frio County

Type of Operation:

retail tire sale and automotive service station

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: November 8, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$15,250

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$15,250

Compliance History Classifications:

Person/CN – High
Site/RN – High

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: September 17, 2012

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

Date(s) of NOE(s): December 13, 2012

Violation Information

1. Failed to prevent the unauthorized discharge of used oil [30 TEX. ADMIN. CODE § 324.4(1), and 40 C.F.R. § 279.22(d)].
2. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 used or scrap tires (or weight equivalent tire pieces or any combination thereof) in enclosed and lockable containers [30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a)].
3. Failed to sort, mark, classify, and arrange in an organized manner good used tires for sale to consumers [30 TEX. ADMIN. CODE § 328.56(d)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Either:
 - i. Reduce and maintain the number of scrap tires being stored at the Facility to 500 or fewer tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 or fewer tires (or weight equivalent tire pieces or any combination thereof) in enclosed and lockable containers; or
 - ii. Obtain a scrap tire storage site registration; and
 - b. Remove all oil-contaminated soil from the Facility and dispose of it at an authorized facility.
2. Within 45 days, submit written certification of compliance.

Litigation Information

Date Petition(s) Filed: August 7, 2013

Date Green Card(s) Signed: August 9, 2013

Date Answer(s) Filed: N/A

Contact Information

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

TCEQ Enforcement Coordinator: Clinton Sims, Enforcement Division, (512) 239-6933

TCEQ Regional Contact: Cameron Lopez, San Antonio Regional Office, (210) 490-3096

Respondents: Virgilio Tijerina, Owner and Operator, Jack's Tire Service, 15650 South IH-35, Dilley, Texas 78017; Abel Tijerina, Owner and Operator, Jack's Tire Service, 15650 South IH-35, Dilley, Texas 78017; and Alvaro Tijerina, Owner and Operator, Jack's Tire Service, 15650 South IH-35, Dilley, Texas 78017.

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-Dec-2012		
	PCW	22-Jul-2013	Screening	16-Dec-2012
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina, dba Jack's Tire Service
Reg. Ent. Ref. No.	RN105726681
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	46090	No. of Violations	1
Docket No.	2013-0257-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Waste Tires	Enf. Coordinator	Clinton Sims
		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** **\$250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **-10.0%** Enhancement **Subtotals 2, 3, & 7** **-\$25**

Notes Reduction for high performer classification.

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 \$219
Approx. Cost of Compliance \$1,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$225**

OTHER FACTORS AS JUSTICE MAY REQUIRE **11.1%** **Adjustment** **\$25**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes The Executive Director recommends an upward adjustment (\$25) to offset the reduction for compliance history.

Final Penalty Amount **\$250**

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

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

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 **\$250**

Screening Date 16-Dec-2012

Docket No. 2013-0257-MLM-E

Respondent Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina, dba Jack's Tire Service

Policy Revision 2 (September 2002)

Case ID No. 46090

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105726681

Media [Statute] Used Oil

Enf. Coordinator Clinton Sims

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Reduction for high performer classification.

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

Screening Date	16-Dec-2012	Docket No.	2013-0257-MLM-E	PCW
Respondent	Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina, dba Jack's Tire Service			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	46090			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105726681			
Media [Statute]	Used Oil			
Enf. Coordinator	Clinton Sims			

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"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>

>> 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 Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina, dba Jack's Tire Service
Case ID No. 46090
Reg. Ent. Reference No. RN105726681
Media Used Oil
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	\$1,000	3-Apr-2009	16-Aug-2013	4.37	\$219	n/a	\$219
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to clean up and dispose of used oil and contaminated soil at an authorized facility. The date required is the initial investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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 \$219



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-Dec-2012	Screening	16-Dec-2012	EPA Due	
	PCW	22-Jul-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina, dba Jack's Tire Service
Reg. Ent. Ref. No.	RN105726681
Facility/Site Region	13-San Antonio
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	46090	No. of Violations	2
Docket No.	2013-0257-MLM-E	Order Type	1660
Media Program(s)	Waste Tires	Government/Non-Profit	No
Multi-Media	Used Oil	Enf. Coordinator	Clinton Sims
		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	\$15,000
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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	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$1,500
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Notes: Reduction for high performer classification.

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: \$2,296
 Approx. Cost of Compliance: #NAME?
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	11.1%	Adjustment	\$1,500
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: The Executive Director recommends an upward adjustment (\$1,500) to offset the reduction for compliance history.

Final Penalty Amount	\$15,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,000
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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	\$15,000
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Screening Date 16-Dec-2012

Docket No. 2013-0257-MLM-E

Respondent Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina, dba Jack's Tire Service

Policy Revision 2 (September 2002)

Case ID No. 46090

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105726681

Media [Statute] Waste Tires

Enf. Coordinator Clinton Sims

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date	16-Dec-2012	Docket No.	2013-0257-MLM-E	PCW
Respondent	Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina, dba Jack's Tire Service			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	46090			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105726681			
Media [Statute]	Waste Tires			
Enf. Coordinator	Clinton Sims			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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	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	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 Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina, dba Jack's Tire Service
Case ID No. 46090
Reg. Ent. Reference No. RN105726681
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

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	\$10,000	3-Apr-2009	16-Aug-2013	4.37	\$2,186	n/a	\$2,186
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 estimated 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 \$10,000

TOTAL \$2,186

Screening Date	16-Dec-2012	Docket No.	2013-0257-MLM-E	PCW
Respondent	Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina, dba Jack's Tire Service			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	46090			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN105726681			
Media [Statute]	Waste Tires			
Enf. Coordinator	Clinton Sims			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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	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	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 Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina, dba Jack's Tire Service
Case ID No. 46090
Reg. Ent. Reference No. RN105726681
Media Waste Tires
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$500	3-Apr-2009	16-Aug-2013	4.37	\$109	n/a	\$109

Notes for DELAYED costs

Estimated cost to sort, mark, classify, and arrange good used tires for sale to the consumer. The date required is the initial investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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 \$500

TOTAL \$109

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603935222, RN105726681, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603935222, Tijerina, Virgilio **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN105726681, Jack's Tire Service **Classification:** HIGH **Rating:** 0.00

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 15650 S IH 35 DILLEY, TX 78017-4619, FRIO COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): **MUNICIPAL SOLID WASTE NON PERMITTED** ID NUMBER UNA455130137

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: January 30, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 30, 2008 to January 30, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Andrea Park **Phone:** (713) 422-8970

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
N/A
- C. Chronic excessive emissions events:**
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**
N/A
- E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
N/A
- F. Environmental audits:**
N/A
- G. Type of environmental management systems (EMSs):**
N/A
- H. Voluntary on-site compliance assessment dates:**
N/A
- I. Participation in a voluntary pollution reduction program:**
N/A
- J. Early compliance:**
N/A
- Sites Outside of Texas:**
N/A

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603477076, RN105726681, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603477076, Tijerina, Abel **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN105726681, Jack's Tire Service **Classification:** HIGH **Rating:** 0.00

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 15650 S IH 35 DILLEY, TX 78017-4619, FRIO COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): **MUNICIPAL SOLID WASTE NON PERMITTED** ID NUMBER UNA455130137

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: January 30, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 30, 2008 to January 30, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Andrea Park **Phone:** (713) 422-8970

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
N/A
- C. Chronic excessive emissions events:**
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**
N/A
- E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
N/A
- F. Environmental audits:**
N/A
- G. Type of environmental management systems (EMSs):**
N/A
- H. Voluntary on-site compliance assessment dates:**
N/A
- I. Participation in a voluntary pollution reduction program:**
N/A
- J. Early compliance:**
N/A
- Sites Outside of Texas:**
N/A

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603935206, RN105726681, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603935206, Tijerina, Alvaro **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN105726681, Jack's Tire Service **Classification:** HIGH **Rating:** 0.00

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 15650 S IH 35 DILLEY, TX 78017-4619, FRIO COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): **MUNICIPAL SOLID WASTE NON PERMITTED** ID NUMBER UNA455130137

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: January 30, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 30, 2008 to January 30, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Andrea Park **Phone:** (713) 422-8970

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
N/A
- C. Chronic excessive emissions events:**
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**
N/A
- E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
N/A
- F. Environmental audits:**
N/A
- G. Type of environmental management systems (EMSs):**
N/A
- H. Voluntary on-site compliance assessment dates:**
N/A
- I. Participation in a voluntary pollution reduction program:**
N/A
- J. Early compliance:**
N/A
- Sites Outside of Texas:**
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
VIRGILIO TIJERINA D/B/A
JACK'S TIRE SERVICE,
ABEL TIJERINA D/B/A
JACK'S TIRE SERVICE, AND
ALVARO TIJERINA D/B/A
JACK'S TIRE SERVICE;
RN105726681**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-0257-MLM-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 371, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina d/b/a Jack's Tire Service ("Respondents").

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

FINDINGS OF FACT

1. Respondents own and/or operate a retail tire sale and automotive service station located at 15650 South IH-35 in Dilley, Frio 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. The Facility also involves the management and/or the disposal of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. During an investigation conducted on September 17, 2012, a TCEQ San Antonio Regional Office investigator documented that Respondents:
 - a. Failed to prevent the unauthorized discharge of used oil. Specifically, used oil was discharged onto the soil at the Facility;
 - b. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 used or scrap tires (or weight equivalent tire pieces or any combination thereof) in enclosed and lockable containers. Specifically, approximately 1,200 scrap tires were observed on the ground at the Facility; and
 - c. Failed to sort, mark, classify, and arrange in an organized manner good used tires for sale to consumers.
3. Respondents received notice of the violations on or about December 18, 2012.

4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina d/b/a Jack's Tire Service" (the "EDPRP") in the TCEQ Chief Clerk's office on August 7, 2013.
5. By letter dated August 7, 2013, sent to each Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served each Respondent with notice of the EDPRP. According to the return receipt "green cards," each Respondent received notice of the EDPRP on August 9, 2013, as evidenced by the signature on each card.
6. More than 20 days have elapsed since each Respondent received notice of the EDPRP. Each Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 371 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondents failed to prevent the unauthorized discharge of used oil, in violation of 30 TEX. ADMIN. CODE § 324.4(1), and 40 C.F.R. § 279.22(d).
3. As evidenced by Finding of Fact No. 2.b., Respondents failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 used or scrap tires (or weight equivalent tire pieces or any combination thereof) in enclosed and lockable containers, in violation of 30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a).
4. As evidenced by Finding of Fact No. 2.c., Respondents failed to sort, mark, classify, and arrange in an organized manner good used tires for sale to consumers, in violation of 30 TEX. ADMIN. CODE § 328.56(d)(3).
5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served each Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
6. As evidenced by Finding of Fact No. 6, each Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of fifteen thousand two hundred fifty dollars (\$15,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondents are assessed an administrative penalty in the amount of fifteen thousand two hundred fifty dollars (\$15,250.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina d/b/a Jack's Tire Service; Docket No. 2013-0257-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

3. Respondents shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondents shall:
 - i. Either:
 - A. Reduce and maintain the number of scrap tires being stored at the Facility to 500 or fewer tires (or weight equivalent tire pieces or any combination thereof) on the ground or 2,000 or fewer tires (or weight equivalent tire pieces or any combination thereof) in enclosed and lockable containers, in accordance with 30 TEX. ADMIN. CODE §§ 328.56 and 328.60; or
 - B. Obtain a scrap tire storage site registration, in accordance with 30 TEX. ADMIN. CODE §§ 328.56 and 328.60; and
 - ii. Remove all oil-contaminated soil from the Facility and dispose of it at an authorized facility.
 - b. Within 45 days after the effective date of this Order, Respondents shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii. 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 certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Cameron Lopez, Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If Respondents fail to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondents' failure to comply is not a violation of this 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.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF TAMMY L. MITCHELL

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

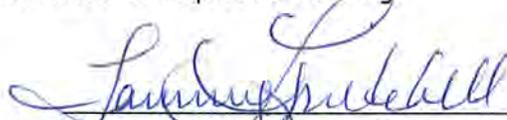
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"My name is Tammy L. Mitchell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Virgilio Tijerina, Abel Tijerina, and Alvaro Tijerina d/b/a Jack's Tire Service" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on August 7, 2013.

The EDPRP was mailed to each Respondent's last known address on August 7, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green cards," each Respondent received notice of the EDPRP on August 9, 2013, as evidenced by the signatures on the cards.

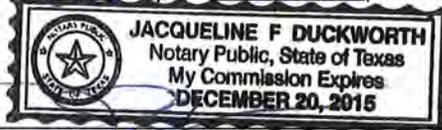
More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing."



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

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

Given under my hand and seal of office this 7th day of October, A.D. 2013.



Notary Signature [Signature] Notary without Bond