

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45351  
Terra Firma Materials, L.L.C.  
RN106506942, RN106506926, and RN106519358  
Docket No. 2012-2620-MLM-E

**Order Type:**

Agreed Order

**Media:**

Multimedia – Municipal Solid Waste and Petroleum Storage Tank

**Small Business:**

Yes

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

Site 1: 9312 East Curve Road, Edinburg, Hidalgo County (RN106506942);

Site 2: 43530 West Expressway 83, Sullivan City, Hidalgo County (RN106506926);

Site 3: 275 feet west of the intersection of FM 1427/Penitas Street and Military Road, Penitas, Hidalgo County (RN106519358).

**Type of Operation:**

asphalt shingle recycling sites

**Other Significant Matters:**

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: None

**Texas Register Publication Date:** August 1, 2014

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$22,501

**Total Paid to General Revenue:** \$1,876

**Total Due to General Revenue:** \$9,375

Payment Plan: 5 payments of \$1,875 each

**SEP Conditional Offset:** \$11,250

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc. -  
*Cleanup of Unauthorized Dumpsites - Hidalgo County, Rio Grande River Basin*

**Compliance History Classifications:**

Person/CN – Unclassified

Site/RN – N/A (all 3 Sites)

**Major Source:** No (all Sites)

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Terra Firma Materials, L.L.C.**  
**RN106506942, RN106506926, and RN106519358**  
**Docket No. 2012-2620-MLM-E**

**Investigation Information**

<b>Complaint Date(s):</b>	July 10, 2012
Complaint Information:	Complainant was concerned about stormwater runoff from Site 1 affecting their property.
<b>Date(s) of Investigation:</b>	August 7, 2012 (Site 1); August 20, 2012 (Sites 2 and 3)
<b>Date(s) of NOV(s):</b>	N/A
<b>Date(s) of NOE(s):</b>	October 5, 2012 (Site 1); October 23, 2012 (Sites 2 and 3)

**Violation Information**

1. Failed to submit a notification to the Executive Director prior to commencement of recycling operations (Site 1) [30 TEX. ADMIN. CODE §§ 328.5(a) and (b), 330.7(a), and 330.11].
2. Failed to provide a written cost closure estimate at least 90 days prior to receipt of combustible materials, and failed to establish and maintain financial assurance for the closure of a recycling facility (all 3 Sites) [30 TEX. ADMIN. CODE §§ 37.921 and 328.5(c) and (d)].
3. Failed to maintain records of recycling operations, make records available to the Executive Director, and demonstrate compliance with recycling requirements related to limits on storage (all 3 Sites) [30 TEX. ADMIN. CODE §§ 328.4(b) and 328.5(f) and (g)].
4. Failed to have a fire prevention and suppression plan and failed to make available a fire prevention and suppression plan to the local fire prevention authority (all 3 Sites) [30 TEX. ADMIN. CODE § 328.5(h)].
5. Failed to register with the TCEQ all above-ground storage tanks (“ASTs”) in existence on or after September 1, 1989 (Site 1) [30 TEX. ADMIN. CODE § 334.127(b)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. Submitted a notification of intent to commence recycling operations at all 3 Sites on or about June 27, 2012 (Site 3 was later shut down and the notice of intent withdrawn) (Violation No. 1);
2. Registered all ASTs at Site 1 as of August 31, 2012 (Violation No. 5);
3. Provided to the Executive Director written cost closure estimates for Site 1 and Site 2 as of November 29, 2012 (Violation No. 2);
4. Shut down Site 3 and properly removed all combustible material from that site as of April 9, 2014; and
5. Provided acceptable financial assurance for the closures of Site 1 and Site 2 as of May 29, 2014 (Violation No. 2).

**Technical Requirements:**

1. Immediately begin maintaining records of recycling operations at Site 1 and Site 2 and make these records available to the Executive Director.
2. Within 30 days, develop a fire suppression and prevention plan for combustible materials for Site 1 and Site 2 and provide each plan to the applicable local fire prevention authority.
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1 and 2.
4. Within 195 days, submit documentation demonstrating that at least 50% by weight or volume of the material currently accumulated for recycling at Site 1 and Site 2 was recycled or transferred to a different site for recycling during the preceding six month period.

**Terra Firma Materials, L.L.C.  
RN106506942, RN106506926, and RN106519358  
Docket No. 2012-2620-MLM-E**

**Litigation Information**

**Date Petition(s) Filed:** May 9, 2013; December 6, 2013  
**Date Answer(s) Filed:** May 28, 2013  
**SOAH Referral Date:** July 1, 2013  
**Hearing Date(s):**  
Preliminary hearing: August 15, 2013 (waived)  
Evidentiary hearing: January 14, 2014 (rescheduled); March 25, 2014 (abated)  
**Settlement Date:** June 19, 2014

**Contact Information**

**TCEQ Attorneys:** Jennifer Cook, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363  
**TCEQ SEP Attorney:** Meaghan Bailey, Litigation Division, (512) 239-3400  
**TCEQ Enforcement Coordinator:** Thomas Greimel, Enforcement Division, (512) 239-5690  
**TCEQ Regional Contact:** Francisco J. Chavero, Jr., Harlingen Regional Office, (956) 425-6010  
**Respondent Contact:** Oscar Cuellar, Manager, Terra Firma Materials, L.L.C., 2516 Fatima No. 2,  
Edinburg, Texas 78541  
**Respondent's Attorney:** Erich M. Birch, Birch, Becker & Moorman, LLP, 4601 Spicewood Springs Road,  
Building 4, Suite 101, Austin, Texas 78759-7814

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**Attachment A**  
**Docket Number: 2012-2620-MLM-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Terra Firma Materials, L.L.C.
<b>Penalty Amount:</b>	Twenty-Two Thousand Five Hundred One Dollars (\$22,501)
<b>SEP Offset Amount:</b>	Eleven Thousand Two Hundred Fifty Dollars (\$11,250)
<b>Type of SEP:</b>	Contribution to a Pre-Approved Third-Party Administrator
<b>Third-Party Administrator:</b>	Texas Association of Resource Conservation and Development Areas, Inc.
<b>Project Name:</b>	<i>Cleanup of Unauthorized Dumpsites</i>
<b>Location of SEP:</b>	Hidalgo County, Rio Grande River Basin

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

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Cleanup of Unauthorized Dumpsites*. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to clean up sites where trash, tires, or other materials have been disposed of illegally.

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

Respondent’s signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

**B. Environmental Benefit**

The SEP shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

**C. Minimum Expenditure**

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

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin making monthly contributions to the Third Party Administrator on the following payment schedule: six monthly payments of \$1,875.00 each, for a total of \$11,250.00 to the Third Party Third-Party Administrator. 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. Respondent shall make the checks payable to **Texas Association of RC&D SEP** and shall mail each contribution with a copy of the Agreed Order to:

Texas Association of RC&D  
Attention: Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75963

**3. Records and Reporting**

Concurrent with the payments of the SEP Offset Amount, Respondent shall provide the Litigation SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

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

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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

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# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	8-Oct-2012	<b>Screening</b>	15-Oct-2012	<b>EPA Due</b>	
	<b>PCW</b>	10-Jun-2014				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 1")		
<b>Reg. Ent. Ref. No.</b>	RN106506942		
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b>	Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	45351	<b>No. of Violations</b>	5
<b>Docket No.</b>	2012-2620-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Thomas Greimel
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$2,006	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$37,538	

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 15-Oct-2012 **Docket No.** 2012-2620-MLM-E  
**Respondent** Terra Firma Materials, L.L.C. ("Site 1")

**PCW**

Policy Revision 3 (September 2011)

**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106506942  
**Media [Statute]** Municipal Solid Waste  
**Enf. Coordinator** Thomas Greimel

PCW Revision August 3, 2011

### 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)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

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

<b>Screening Date</b>	15-Oct-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 1")		Policy Revision 3 (September 2011)	
<b>Case ID No.</b>	45351	PCW Revision August 3, 2011		
<b>Reg. Ent. Reference No.</b>	RN106506942			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 328.5(a) and (b), 330.7(a) and 330.11			
<b>Violation Description</b>	Failed to submit a notification to the Executive Director prior to commencement of recycling operations. Specifically, the Respondent began collecting asphalt shingles before submitting a notification.			
<b>Base Penalty</b>				\$25,000

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

<b>OR</b>	<b>Release</b>	<b>Harm</b>			<b>Percent</b>
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	<b>Percent</b>
		x			
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
<b>Adjustment</b>					\$23,750
					\$1,250

**Violation Events**

Number of Violation Events	3	68	Number of violation days
<i>mark only one with an x</i>	daily		<b>Violation Base Penalty</b>
	weekly		
	monthly	x	
	quarterly		
	semiannual		
	annual		
	single event		
Three monthly event is recommended from April 20, 2012 date recycling operations began to the June 27, 2012 date of compliance.			
<b>Violation Base Penalty</b>			\$3,750

**Good Faith Efforts to Comply**

	<b>25.0%</b>	Reduction	\$937
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary			
Ordinary	x		
N/A		(mark with x)	
<b>Notes</b>	The Respondent came into compliance on June 27, 2012, prior to the Notice of Enforcement ("NOE") dated October 5, 2012.		
<b>Violation Subtotal</b>			\$2,813

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount	\$47
<b>Violation Final Penalty Total</b>	\$2,813
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$2,813

## Economic Benefit Worksheet

**Respondent** Terra Firma Materials, L.L.C. ("Site 1")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106506942  
**Media Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	20-Apr-2012	27-Jun-2012	0.19	\$47	n/a	\$47
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost to submit a Notice of Intent to conduct recycling operations. The date required is the date recycling operations began and the final date is the 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**

<b>Approx. Cost of Compliance</b>	\$5,000	<b>TOTAL</b>	\$47
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<b>Screening Date</b>	15-Oct-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 1")			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45351	<i>PCW Revision August 3, 2011</i>		
<b>Reg. Ent. Reference No.</b>	RN106506942			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 37.921 and 328.5(c) and (d)			
<b>Violation Description</b>	Failed to provide a written cost closure estimate at least 90 days prior to receipt of combustible materials and establish and maintain financial assurance for the closure of a recycling facility. Specifically, the Respondent began receiving asphalt shingles before submitting a written cost closure estimate and did not provide financial assurance for approximately 44,444 cubic yards of asphalt shingles.			
<b>Base Penalty</b>				\$25,000

>> Environmental, Property and Human Health Matrix

OR	<b>Harm</b>			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential				
				0.0%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%

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

Adjustment: \$23,750

\$1,250

Violation Events

Number of Violation Events: 1      313 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty: \$1,250

One single event is recommended.

Good Faith Efforts to Comply      0.0% Reduction      \$0

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

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

Violation Subtotal: \$1,250

Economic Benefit (EB) for this violation      Statutory Limit Test

Estimated EB Amount: \$1,859      Violation Final Penalty Total: \$1,250

This violation Final Assessed Penalty (adjusted for limits): \$1,250

# Economic Benefit Worksheet

**Respondent** Terra Firma Materials, L.L.C. ("Site 1")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106506942  
**Media Violation No.** Municipal Solid Waste  
 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$500	21-Jan-2012	29-Nov-2012	0.86	\$21	n/a	\$21
Other (as needed)	\$29,938	20-Apr-2012	12-Jul-2013	1.23	\$1,837	n/a	\$1,837

**Notes for DELAYED costs**  
 Estimated cost to prepare a cost closure estimate and obtain financial assurance. The dates required are 90 days prior to receipt of recyclable materials and the date recycling operations began and the final dates are the date of compliance and the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$30,438	<b>TOTAL</b>	\$1,859
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<b>Screening Date</b>	15-Oct-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 1")			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45351			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106506942			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

Failed to maintain records of recycling operations, make records available to the Executive Director, and demonstrate compliance with recycling requirements related to limits on storage. Specifically, approximately 44,444 cubic yards of recyclable material was being stored at the Facility without adequate records to demonstrate compliance.

**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="0.0%"/>
	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="5.0%"/>

Matrix Notes

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

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

**Violation Base Penalty**

One single event is recommended based on the documentation of the violation during the August 7, 2012 investigation.

**Good Faith Efforts to Comply**

Reduction

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

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

**Violation Subtotal**

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

**Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Terra Firma Materials, L.L.C. ("Site 1")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106506942  
**Media Violation No.** Municipal Solid Waste  
 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,500	7-Aug-2012	12-Jul-2013	0.93	\$70	n/a	\$70
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records of recycling operations. The date required is the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,500

**TOTAL** \$70

<b>Screening Date</b>	15-Oct-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 1")			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45351			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106506942			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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="0.0%"/>
	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="5.0%"/>

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

**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** Terra Firma Materials, L.L.C. ("Site 1")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106506942  
**Media Violation No.** 4

Municipal Solid Waste

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)	\$500	20-Apr-2012	12-Jul-2013	1.23	\$31	n/a	\$31

**Notes for DELAYED costs** Estimated cost to develop and provide a fire suppression and prevention plan for combustible materials. The dated required is the date recycling operations began and the final date is the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500

**TOTAL** \$31

<b>Screening Date</b>	15-Oct-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 1")			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45351			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106506942			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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="0.0%"/>
	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="5.0%"/>

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

**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 checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(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** Terra Firma Materials, L.L.C. ("Site 1")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106506942  
**Media Violation No.** Municipal Solid Waste  
 5

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				0.00	\$0	n/a	\$0
Other (as needed)	\$100	7-Aug-2012	31-Aug-2012	0.07	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to accurately prepare and submit an AST registration. The date required is the investigation date and the final date is the 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  

**TOTAL**



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603322983, RN106506942, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN603322983, Terra Firma Materials, L.L.C.	<b>Classification:</b> UNCLASSIFIED	<b>Rating:</b> -----
<b>Regulated Entity:</b>	RN106506942, TERRA FIRMA MATERIALS	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	9312 E CURVE RD EDINBURG, TX 78542-4129, HIDALGO COUNTY		
<b>TCEQ Region:</b>	REGION 15 - HARLINGEN		
<b>ID Number(s):</b>	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 85343 MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150219 MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 100408		

<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b>	2012	<b>Rating Date:</b>	09/01/2012
<b>Date Compliance History Report Prepared:</b>	June 09, 2014				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	January 31, 2008 to January 31, 2013				

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

**Name:** Thomas Greimel **Phone:** (512) 239-5690

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** 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



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	29-Oct-2012		
	<b>PCW</b>	10-Jun-2014	<b>Screening</b>	5-Nov-2012
			<b>EPA Due</b>	

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 2")		
<b>Reg. Ent. Ref. No.</b>	RN106506926		
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b>	Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	45351	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-2620-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Thomas Greimel
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$7,500**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts	\$7,689	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$170,828	

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$7,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$7,500**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$7,500**

**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** **\$7,500**

**Screening Date** 5-Nov-2012 **Docket No.** 2012-2620-MLM-E

**Respondent** Terra Firma Materials, L.L.C. ("Site 2")

**PCW**

Policy Revision 3 (September 2011)

**Case ID No.** 45351

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN106506926

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Thomas Greimel

### 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)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

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

<b>Screening Date</b>	5-Nov-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 2")		Policy Revision 3 (September 2011)	
<b>Case ID No.</b>	45351	PCW Revision August 3, 2011		
<b>Reg. Ent. Reference No.</b>	RN106506926			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 37.921 and 328.5(c) and (d)			
<b>Violation Description</b>	Failed to provide a written cost closure estimate at least 90 days prior to receipt of combustible materials and establish and maintain financial assurance for the closure of a recycling facility. Specifically, the Respondent began receiving asphalt shingles before submitting a written cost closure estimate and financial assurance was not provided for approximately 9,000 cubic yards of asphalt shingles.			
<b>Base Penalty</b>				\$25,000

>> Environmental, Property and Human Health Matrix

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> 5.0%

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

**Adjustment** \$23,750

\$1,250

Violation Events

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

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

One single event is recommended.

Good Faith Efforts to Comply  Reduction \$0

	<b>0.0%</b> Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

**Violation Subtotal** \$1,250

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

**Estimated EB Amount** \$432 **Violation Final Penalty Total** \$1,250

**This violation Final Assessed Penalty (adjusted for limits)** \$1,250

## Economic Benefit Worksheet

**Respondent** Terra Firma Materials, L.L.C. ("Site 2")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106506926  
**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
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	\$500	31-Mar-2012	29-Nov-2012	0.67	\$17	n/a	\$17
Other (as needed)	\$8,015	29-Jun-2012	12-Jul-2013	1.04	\$415	n/a	\$415

**Notes for DELAYED costs**  
 Estimated cost to prepare a cost closure estimate and obtain financial assurance. The dates required are 90 days prior to receipt of recyclable materials and the date recycling operations began and the final dates are the date of compliance and the estimated date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$8,515	<b>TOTAL</b>	\$432
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<b>Screening Date</b>	5-Nov-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 2")			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45351			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106506926			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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="0.0%"/>
	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="5.0%"/>

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

**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** Terra Firma Materials, L.L.C. ("Site 2")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106506926  
**Media Violation No.** Municipal Solid Waste  
 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,500	20-Aug-2012	2-Aug-2013	0.95	\$71	n/a	\$71
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records of recycling operations. The date required is the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$71

<b>Screening Date</b>	5-Nov-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 2")			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45351			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106506926			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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="0.0%"/>
	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="5.0%"/>

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

**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** Terra Firma Materials, L.L.C. ("Site 2")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106506926  
**Media Violation No.** Municipal Solid Waste  
 3

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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	29-Jun-2012	2-Aug-2013	1.09	\$27	n/a	\$27

**Notes for DELAYED costs**

Estimated cost to develop and provide a fire suppression and prevention plan for combustible materials. The dated required is the date recycling operations began and the final date is the estimated date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500

**TOTAL** \$27



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603322983, RN106506926, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN603322983, Terra Firma Materials, L.L.C.	<b>Classification:</b> UNCLASSIFIED	<b>Rating:</b> -----
<b>Regulated Entity:</b>	RN106506926, TERRA FIRMA MATERIALS PIT 1	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	43530 W EXPRESSWAY 83 SULLIVAN CITY, TX 78595, HIDALGO COUNTY		
<b>TCEQ Region:</b>	REGION 15 - HARLINGEN		
<b>ID Number(s):</b>	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 85342 MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150220		

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

**Date Compliance History Report Prepared:** January 31, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 31, 2008 to January 31, 2013

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

**Name:** Brianna Carlson

**Phone:** (956) 430-6021

## **Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES 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



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	29-Oct-2012			
	<b>PCW</b>	10-Jun-2014	<b>Screening</b>	5-Nov-2012	<b>EPA Due</b>

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 3")			
<b>Reg. Ent. Ref. No.</b>	RN106519358			
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b>	Minor	

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	45351	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-2620-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Thomas Greimel
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$7,500**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts	\$7,287	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$163,062	

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$7,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$7,500**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$7,500**

**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** **\$7,500**

**Screening Date** 5-Nov-2012 **Docket No.** 2012-2620-MLM-E

**Respondent** Terra Firma Materials, L.L.C. ("Site 3")

**PCW**

Policy Revision 3 (September 2011)

**Case ID No.** 45351

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN106519358

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Thomas Greimel

### 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)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

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

<b>Screening Date</b>	5-Nov-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 3")			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45351	<i>PCW Revision August 3, 2011</i>		
<b>Reg. Ent. Reference No.</b>	RN106519358			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 37.921 and 328.5(c) and (d)			
<b>Violation Description</b>	Failed to provide a written cost closure estimate at least 90 days prior to receipt of combustible materials and establish and maintain financial assurance for the closure of a recycling facility. Specifically, the Respondent began receiving asphalt shingles before submitting a written cost closure estimate and financial assurance was not provided for approximately 330 cubic yards of asphalt shingles.			
<b>Base Penalty</b>				\$25,000

>> Environmental, Property and Human Health Matrix

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			
	Potential			
				<b>Percent</b> 0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> 5.0%

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

**Adjustment** \$23,750

\$1,250

Violation Events

Number of Violation Events: 1      243 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

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

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

**Violation Subtotal** \$1,250

Economic Benefit (EB) for this violation      Statutory Limit Test

Estimated EB Amount \$30      Violation Final Penalty Total \$1,250

**This violation Final Assessed Penalty (adjusted for limits)** \$1,250

## Economic Benefit Worksheet

**Respondent** Terra Firma Materials, L.L.C. ("Site 3")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106519358  
**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
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	\$500	31-Mar-2012	29-Nov-2012	0.67	\$17	n/a	\$17
Other (as needed)	\$249	29-Jun-2012	12-Jul-2013	1.04	\$13	n/a	\$13

**Notes for DELAYED costs** Estimated cost to prepare a cost closure estimate and obtain financial assurance. The dates required are 90 days prior to receipt of recyclable materials and the date recycling operations began and the final dates are the date of compliance and the estimated date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$749

**TOTAL** \$30

<b>Screening Date</b>	5-Nov-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 3")			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45351			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106519358			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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="0.0%"/>
	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="5.0%"/>

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

**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** Terra Firma Materials, L.L.C. ("Site 3")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106519358  
**Media Violation No.** Municipal Solid Waste  
 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,500	20-Aug-2012	2-Aug-2013	0.95	\$71	n/a	\$71
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to maintain records of recycling operations. The date required is the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance:  **TOTAL**

<b>Screening Date</b>	5-Nov-2012	<b>Docket No.</b>	2012-2620-MLM-E	<b>PCW</b>
<b>Respondent</b>	Terra Firma Materials, L.L.C. ("Site 3")			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45351			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN106519358			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Thomas Greimel			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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="0.0%"/>
	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="5.0%"/>

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

**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** Terra Firma Materials, L.L.C. ("Site 3")  
**Case ID No.** 45351  
**Reg. Ent. Reference No.** RN106519358  
**Media Violation No.** Municipal Solid Waste  
 3

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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	29-Jun-2012	2-Aug-2013	1.09	\$27	n/a	\$27

**Notes for DELAYED costs**  
 Estimated cost to develop and provide a fire suppression and prevention plan for combustible materials. The dated required is the date recycling operations began and the final date is the estimated date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500

**TOTAL** \$27



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603322983, RN106519358, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN603322983, Terra Firma Materials, L.L.C.	<b>Classification:</b> UNCLASSIFIED	<b>Rating:</b> -----
<b>Regulated Entity:</b>	RN106519358, TERRA FIRMA PENITAS SITE	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	275 FEET WEST OF THE INTERSECTION OF FARM-TO-MARKET RD 1427 (PENITAS ST) AND MILITARY ROAD IN PENITAS, TEXAS, HIDALGO COUNTY		
<b>TCEQ Region:</b>	REGION 15 - HARLINGEN		
<b>ID Number(s):</b>	MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150221		
<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b> 2012	<b>Rating Date:</b> 09/01/2012
<b>Date Compliance History Report Prepared:</b>	January 31, 2013		
<b>Agency Decision Requiring Compliance History:</b>	Enforcement		
<b>Component Period Selected:</b>	January 31, 2008 to January 31, 2013		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Brianna Carlson	<b>Phone:</b>	(956) 430-6021

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TERRA FIRMA MATERIALS, L.L.C.;  
RN106506942, RN106506926,  
AND RN106519358

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2012-2620-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 Terra Firma Materials, L.L.C. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Erich M. Birch of the law firm Birch, Becker & Moorman, LLP, together stipulate that:

1. Respondent operates three asphalt shingle recycling sites (collectively referred to as the "Sites") at the following locations:
  - a. 9312 East Curve Road in Edinburg, Hidalgo County, Texas (RN106506942) ("Site 1"). Respondent also owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(70) and (73), three in-service aboveground storage tanks ("ASTs") at Site 1;
  - b. 43530 West Expressway 83 in Sullivan City, Hidalgo County, Texas (RN106506926) ("Site 2"); and
  - c. 275 feet west of the intersection of Farm-to-Market Road 1427 (Penitas Street) and Military Road in Penitas, Hidalgo County, Texas (RN106519358) ("Site 3").

The Sites involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The ASTs at Site 1 are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.

2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The TCEQ has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, and TCEQ rules.
3. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Agreed Order, and that Respondent is subject to TCEQ's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of twenty-two thousand five hundred one dollars (\$22,501.00) is assessed by the Commission in settlement of the violations alleged in Section II. Pursuant to TEX. WATER CODE § 7.067, eleven thousand two hundred fifty dollars (\$11,250.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

Respondent paid one thousand eight hundred seventy-six dollars (\$1,876.00) of the eleven thousand two hundred fifty-one dollar (\$11,251.00) undeferred administrative penalty. The remaining amount of nine thousand three hundred seventy-five dollars (\$9,375.00) of the undeferred administrative penalty shall be payable in five (5) monthly payments of one thousand eight hundred seventy-five dollars (\$1,875.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the SEP Agreement and any payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.
11. The Executive Director recognizes that Respondent implemented the following corrective measures:
  - a. Submitted to the Executive Director a notification of intent to commence recycling operations at Sites 1, 2 and 3 on or about June 27, 2012, although Site 3 was later shut down and the notice of intent withdrawn;

- b. Registered all ASTs at Site 1 as of August 31, 2012;
- c. Provided to the Executive Director written cost closure estimates for Site 1 and Site 2 as of November 29, 2012;
- d. Shut down Site 3 and properly removed all combustibile material from that site as of April 9, 2014; and
- e. Provided acceptable financial assurance for the closures of Site 1 and Site 2 as of May 29, 2014.

## II. ALLEGATIONS

1. During investigations conducted on August 7, 2012 at Site 1, and August 20, 2012 at Sites 2 and 3, a TCEQ Harlingen Regional Office investigator documented that Respondent:
  - a. Failed to submit a notification to the Executive Director prior to commencement of recycling operations, in violation of 30 TEX. ADMIN. CODE §§ 328.5(a) and (b), 330.7(a), and 330.11. Specifically, Respondent began collecting asphalt shingles at Site 1 before submitting a notification of intent to commence recycling operations;
  - b. Failed to provide a written cost closure estimate at least 90 days prior to receipt of combustibile materials, and failed to establish and maintain financial assurance for the closure of a recycling facility, in violation of 30 TEX. ADMIN. CODE §§ 37.921 and 328.5(c) and (d). Specifically, Respondent began receiving asphalt shingles before submitting a written cost closure estimate and did not provide financial assurance for approximately 44,444 cubic yards of asphalt shingles at Site 1, approximately 9,000 cubic yards of asphalt shingles at Site 2, and approximately 330 cubic yards of asphalt shingles at Site 3;
  - c. Failed to maintain records of recycling operations, make records available to the Executive Director, and demonstrate compliance with recycling requirements related to limits on storage, in violation of 30 TEX. ADMIN. CODE §§ 328.4(b) and 328.5(f) and (g). Specifically, approximately 44,444 cubic yards of recyclable material was being stored at Site 1, approximately 9,000 cubic yards of recyclable material was being stored at Site 2, and approximately 330 cubic yards of recyclable material was being stored at Site 3, without adequate records to demonstrate compliance with storage limits;
  - d. Failed to have a fire prevention and suppression plan for Site 1, Site 2 and Site 3 and failed to make available a fire prevention and suppression plan to the local fire prevention authority for the Sites, in violation of 30 TEX. ADMIN. CODE § 328.5(h); and
  - e. Failed to register with the TCEQ all ASTs in existence on or after September 1, 1989, in violation of 30 TEX. ADMIN. CODE § 334.127(b). Specifically, at Site 1 there were three unregistered ASTs which contained petroleum products.
2. Respondent received notice of the violations at Site 1 on or about October 10, 2012, and the violations at Sites 2 and 3 on or about October 28, 2012.

## III. DENIALS

Respondent generally denies each Allegation in Section II.

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Terra Firma Materials, L.L.C., Docket No. 2012-2620-MLM-E" to:

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

2. Respondent shall implement and complete a SEP as set forth in Section I, Paragraph 5, above. The amount of eleven thousand two hundred fifty dollars (\$11,250.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Respondent shall begin maintaining records of recycling operations at Site 1 and Site 2 and make these records available to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 328.5.
  - b. Within 30 days after the effective date of this Agreed Order, Respondent shall develop a fire suppression and prevention plan for combustible materials for Site 1 and Site 2 and provide each plan to the applicable local fire prevention authority, in accordance with 30 TEX. ADMIN. CODE § 328.5.
  - c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provisions Nos. 3.a. and 3.b.
  - d. Within 195 days after the effective date of this Agreed Order, Respondent shall submit documentation demonstrating that at least 50% by weight or volume of the material currently accumulated for recycling at Site 1 and Site 2 was recycled or transferred to a different site for recycling during the preceding six month period, in accordance with 30 TEX. ADMIN. CODE §§ 328.4 and 328.5.
  - e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Francisco J. Chavero, Jr., Waste Section Manager  
Harlingen Regional Office  
Texas Commission on Environmental Quality  
1804 West Jefferson Avenue  
Harlingen TX 78550-5247

4. All relief not expressly granted in this Agreed Order is denied.
5. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the operations at the Sites referenced in this Agreed Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be

copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission

  
For the Executive Director

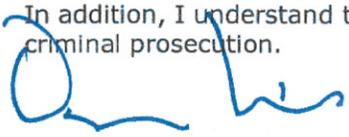
November 10, 2014  
Date

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 Terra Firma Materials, L.L.C., and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

  
Signature - Oscar Cuellar, Manager  
Terra Firma Materials, L.L.C.

6/19/2014  
Date

**Attachment A**  
**Docket Number: 2012-2620-MLM-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Terra Firma Materials, L.L.C.
<b>Penalty Amount:</b>	Twenty-Two Thousand Five Hundred One Dollars (\$22,501)
<b>SEP Offset Amount:</b>	Eleven Thousand Two Hundred Fifty Dollars (\$11,250)
<b>Type of SEP:</b>	Contribution to a Pre-Approved Third-Party Administrator
<b>Third-Party Administrator:</b>	Texas Association of Resource Conservation and Development Areas, Inc.
<b>Project Name:</b>	<i>Cleanup of Unauthorized Dumpsites</i>
<b>Location of SEP:</b>	Hidalgo County, Rio Grande River Basin

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

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Cleanup of Unauthorized Dumpsites*. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities to clean up sites where trash, tires, or other materials have been disposed of illegally.

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

Respondent’s signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

**B. Environmental Benefit**

The SEP shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

**C. Minimum Expenditure**

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

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin making monthly contributions to the Third Party Administrator on the following payment schedule: six monthly payments of \$1,875.00 each, for a total of \$11,250.00 to the Third Party Third-Party Administrator. 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. Respondent shall make the checks payable to **Texas Association of RC&D SEP** and shall mail each contribution with a copy of the Agreed Order to:

Texas Association of RC&D  
Attention: Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75963

**3. Records and Reporting**

Concurrent with the payments of the SEP Offset Amount, Respondent shall provide the Litigation SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

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

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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