

Thomas H. Stone
RN106268055
Docket No. 2012-0214-MLM-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Absence of management practices designed to ensure compliance.

Media:

MLM: MSW and AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

near the intersection of BW Stone Ranch Road and East Olive Street, near the city of Holliday, Archer County

Type of Operation:

unauthorized municipal solid waste ("MSW") disposal site

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date:	March 14, 2014
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$78,353
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Deferred for Financial Inability to Pay:	\$74,753
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Total Paid to General Revenue:	\$100
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Total Due to General Revenue:	\$3,500
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Payment Plan: 35 payments of \$100 each

SEP Conditional Offset:	N/A
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Compliance History Classifications:

Person/CN – Not Yet Rated
Site/RN – Not Yet Rated

Major Source:	No (PCW 1); Yes (PCW 2)
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Statutory Limit Adjustment:	None
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Applicable Penalty Policy:	September 2011
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Thomas H. Stone

RN106268055

Docket No. 2012-0214-MLM-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: November 2, 2011
Date(s) of NOV(s): N/A
Date(s) of NOE(s): December 21, 2011

Violation Information

1. Failed to prohibit the burning of MSW for the purpose of disposal (approx. 2,000 scrap tires) [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201].
2. Failed to prevent the unauthorized disposal of MSW (approx. 10,000 cu/yd. of metal, lumber, paper, furniture, clothing, and brush, and approx. 7,500 scrap tires) [30 TEX. ADMIN. CODE § 330.15(c)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

None

Technical Requirements:

1. Immediately, cease the burning and disposal of additional MSW at the Site.
2. Within 120 days, remove all MSW from the Site and dispose of it at an authorized facility.
3. Within 135 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: May 10, 2012
Date Answer(s) Filed: May 25, 2012
SOAH Referral Date: July 25, 2012
Hearing Date(s):
Preliminary Hearing: October 4, 2012
Evidentiary Hearing: July 3, 2013 (scheduled)
Settlement Date: June 28, 2013

Contact Information

TCEQ Attorneys: Joel Cordero, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Vic McWherter, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Nadia Hameed, Enforcement Division, (713) 767-3629
TCEQ Regional Contact: Michael Taylor, Abilene Regional Office, (325) 698-9674
Respondent Contact: Thomas H. Stone, P.O. Box 911, Holliday, Texas 76366
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	27-Dec-2011			
	PCW	23-Jan-2012	Screening	19-Jan-2012	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Thomas H Stone			
Reg. Ent. Ref. No.	RN106268055			
Facility/Site Region	3-Abilene	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	43406	No. of Violations	1
Docket No.	2012-0214-MLM-E	Order Type	Findings
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Nadia Hameed
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **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 **\$2,103**
 Approx. Cost of Compliance **\$2,103**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,250**

OTHER FACTORS AS JUSTICE MAY REQUIRE **168.2%** **Adjustment** **\$2,103**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to recover avoided cost of compliance for the violation.

Final Penalty Amount **\$3,353**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$3,353**

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

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$3,353**

Screening Date	19-Jan-2012	Docket No.	2012-0214-MLM-E	PCW
Respondent	Thomas H Stone			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	43406			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106268055			
Media [Statute]	Air			
Enf. Coordinator	Nadia Hameed			

Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date	19-Jan-2012	Docket No.	2012-0214-MLM-E	PCW
Respondent	Thomas H Stone	<i>Policy Revision 3 (September 2011)</i>		
Case ID No.	43406	<i>PCW Revision August 3, 2011</i>		
Reg. Ent. Reference No.	RN106268055			
Media [Statute]	Air			
Enf. Coordinator	Nadia Hameed			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm				Percent <input type="text" value="5.0%"/>
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0.0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input 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 EDRP/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 Thomas H Stone
Case ID No. 43406
Reg. Ent. Reference No. RN106268055
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$2,103	20-Oct-2011	2-Nov-2011	0.00	\$0	\$2,103	\$2,103
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to have properly disposed of the MSW at an authorized facility rather than burning. The Date Required is the date the unauthorized burning was documented and the Final Date is investigation date.

Approx. Cost of Compliance \$2,103

TOTAL \$2,103



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	27-Dec-2011		
	PCW	23-Jan-2012	Screening	19-Jan-2012
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Thomas H Stone		
Reg. Ent. Ref. No.	RN106268055		
Facility/Site Region	3-Abilene	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	43406	No. of Violations	1
Docket No.	2012-0214-MLM-E	Order Type	Findings
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Air	Enf. Coordinator	Nadia Hameed
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$75,000

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	\$6,513	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$184,275	

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$75,000

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$75,000

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$75,000

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

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$75,000**

Screening Date	19-Jan-2012	Docket No.	2012-0214-MLM-E	PCW
Respondent	Thomas H Stone			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	43406			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106268055			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Nadia Hameed			

Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date	19-Jan-2012	Docket No.	2012-0214-MLM-E	PCW
Respondent	Thomas H Stone	<i>Policy Revision 3 (September 2011)</i>		
Case ID No.	43406	<i>PCW Revision August 3, 2011</i>		
Reg. Ent. Reference No.	RN106268055			
Media [Statute]	Municipal Solid Waste			
Enf. Coordinator	Nadia Hameed			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to prevent the unauthorized disposal of MSW. Specifically, approximately 10,000 cubic yards of MSW including metal, lumber, paper, furniture, clothing and brush and approximately 7,500 scrap tires were disposed of at the Site.

Base Penalty

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

OR

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

Percent

>> **Programmatic Matrix**

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

Percent

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

<i>mark only one with an x</i>	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty

Three monthly events are recommended from the November 2, 2011 investigation to the January 19, 2012 screening date.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	(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 Thomas H Stone
Case ID No. 43406
Reg. Ent. Reference No. RN106268055
Media Violation No. 1
Media 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	\$184,275	2-Nov-2011	17-Jul-2012	0.71	\$6,513	n/a	\$6,513
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to remove the MSW and dispose of it at a facility authorized to accept the waste. 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	\$184,275	TOTAL	\$6,513
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Compliance History Report

Customer/Respondent/Owner-Operator: CN603982869 STONE, THOMAS H Classification: Rating:
Regulated Entity: RN106268055 STONE UNAUTHORIZED TIRE SITE Classification: Site Rating:
ID Number(s):
Location: Located near the intersection of BW Stone Ranch Road and East Olive Street, near Holliday, in Archer County, Texas
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: January 23, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 23, 2007 to January 23, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Nadia Hameed Phone: 713-767-3629

Site Compliance History Components

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**, who is the current owner/operator? N/A
4. If **YES**, who was/were the prior owner(s)/operator(s)? N/A
5. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 12/21/2011 (968497)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
THOMAS H. STONE;
RN106268055**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-0214-MLM-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Thomas H. Stone ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

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

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates an unauthorized municipal solid waste ("MSW") disposal site located near the intersection of BW Stone Ranch Road and East Olive Street, near Holliday, in Archer County, Texas (the "Facility"). The Facility involves the management and/or the disposal of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on November 2, 2011, a TCEQ Abilene Regional Office investigator documented that Respondent:
 - a. Failed to prohibit the burning of MSW for the purpose of disposal. Specifically, approximately 2,000 tires were burned on October 20, 2011; and
 - b. Failed to prevent the unauthorized disposal of MSW. Specifically, approximately 10,000 cubic yards of MSW including metal, lumber, paper, furniture, clothing, and brush and approximately 7,500 scrap tires were disposed of at the Facility.
3. Respondent received notice of the violations on or about December 26, 2011.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 382 and the rules of the

Commission.

2. As evidenced by Finding of Fact No. 2.a., Respondent failed to prohibit the burning of MSW for the purpose of disposal, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of seventy-eight thousand three hundred fifty-three dollars (\$78,353) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay all or part of the administrative penalty. Therefore, seventy-four thousand seven hundred fifty-three dollars (\$74,753.00) of the administrative penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including any payment schedule, the Executive Director may require Respondent to pay all or part of the deferred administrative penalty.

Respondent paid one hundred dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) of the undeferred administrative penalty shall be payable in thirty-five (35) monthly payments of one hundred dollars (\$100.00) 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 the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, 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 demand payment of the deferred penalty amount.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5, above, for violations of state statutes and rules of the TCEQ. 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 matters set forth by this Agreed Order in this action. 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: Thomas H. Stone, Docket No. 2012-0214-MLM-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Respondent shall cease the burning and disposal of additional MSW at the Facility, in accordance with 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b);
 - b. Within 120 days after the effective date of this Agreed Order, Respondent shall remove all MSW from the Facility and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 330.21;
 - c. Within 135 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

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:

Michael Taylor, Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of 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 Facility operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive

Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. 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 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. 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.
11. 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 notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

May 2, 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 Thomas H. Stone, 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 Agreed 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.

Thomas H. Stone
Signature - Thomas H. Stone

6-28-13
Date