

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 47892
Zack Griffin d/b/a Big Zacks Tire Shack 2
RN106596141
Docket No. 2013-2016-MSW-E

Order Type:

Default Order

Media:

Municipal Solid Waste

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1001 East Rancier Avenue, Killeen, Bell County

Type of Operation:

used tire sales and scrap tire storage facility

Other Significant Matters:

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

Texas Register Publication Date: July 4, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$17,587

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$17,587

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): January 18, 2013
Complaint Information: Alleged that the facility was storing more than 500 scrap tires without the proper registration.

Date(s) of Investigation: August 30, 2013

Date(s) of NOV(s): March 29, 2013

Date(s) of NOE(s): October 9, 2013

Violation Information

1. Failed to obtain a generator registration for the Facility prior to storing more than 500 used or scrap tires at the Facility [30 TEX. ADMIN. CODE § 328.56(a)(1)]
2. Failed to use manifests, work orders, invoices, or other records to document the removal and management of all scrap tires generated at the Facility [30 TEX. ADMIN. CODE § 328.56(c)].
3. Failed to have an effective vector control program for scrap tires stored outside [30 TEX. ADMIN. CODE § 328.56(d)(4)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Immediately:
 - a. Cease accepting any additional scrap tires at the Facility until proper authorization is obtained; and
 - b. Begin vector monitoring and utilization of vector control measures.
2. Within 30 days:
 - a. Register the Facility as a generator of used or scrap tires, and
 - b. Ensure manifests are completed and maintained at the Facility to document the removal and management of all scrap tires generated at the Facility.
3. Within 60 days, remove all unauthorized used or scrap tires at the Facility and dispose of them at an authorized facility.
4. Within 75 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: February 25, 2014

Date Green Card(s) Signed: February 26, 2014

Date Answer(s) Filed: N/A

Contact Information

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

TCEQ Enforcement Coordinator: Keith Frank, Enforcement Division, (512) 239-1203

TCEQ Regional Contact: David Mann, Waco Regional Office, (254) 751-0335

Respondent Contact: Zack Griffin, 1001 East Rancier Avenue, Killeen, Texas 76541

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	14-Oct-2013		
	PCW	11-Feb-2014	Screening	28-Oct-2013
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Zack Griffin dba Big Zacks Tire Shack 2		
Reg. Ent. Ref. No.	RN106596141		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	47892	No. of Violations	3
Docket No.	2013-2016-MSW-E	Order Type	1660
Media Program(s)	Waste Tires	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$16,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$837
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Notes	Enhancement for one NOV with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$475	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$11,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$17,587
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$17,587
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$17,587
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$17,587
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Screening Date 28-Oct-2013

Docket No. 2013-2016-MSW-E

PCW

Respondent Zack Griffin dba Big Zacks Tire Shack 2

Policy Revision 3 (September 2011)

Case ID No. 47892

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106596141

Media [Statute] Waste Tires

Enf. Coordinator Keith Frank

Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same/similar violations.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date 28-Oct-2013 **Docket No.** 2013-2016-MSW-E **PCW**
Respondent Zack Griffin dba Big Zacks Tire Shack 2 *Policy Revision 3 (September 2011)*
Case ID No. 47892 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN106596141
Media [Statute] Waste Tires
Enf. Coordinator Keith Frank

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 328.56(a)(1)

Violation Description

Failed to obtain a generator registration for the Facility prior to storing more than 500 used or scrap tires at the Facility. Specifically, the Respondent was storing approximately 1,000 scrap tires at the Facility.

Base Penalty

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

OR

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

Percent

>> **Programmatic Matrix**

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

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Two monthly events are recommended based on documentation of the violation during the August 30, 2013 investigation to the October 28, 2013 screening date.

Good Faith Efforts to Comply

Reduction

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

Notes

The 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 Zack Griffin dba Big Zacks Tire Shack 2
Case ID No. 47892
Reg. Ent. Reference No. RN106596141
Media Violation No. Waste Tires
 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	30-Aug-2013	11-Jul-2014	0.86	\$432	n/a	\$432
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Facility as a generator of used or scrap tires. Date Required is the investigation date. 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

\$10,000

TOTAL

\$432

Screening Date 28-Oct-2013

Docket No. 2013-2016-MSW-E

PCW

Respondent Zack Griffin dba Big Zacks Tire Shack 2

Policy Revision 3 (September 2011)

Case ID No. 47892

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106596141

Media [Statute] Waste Tires

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 328.56(c)

Violation Description

Failed to use manifests, work orders, invoices, or other records to document the removal and management of all scrap tires generated at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

59 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended based on documentation of the violation during the August 30, 2013 investigation to the October 28, 2013 screening date.

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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$7,875

This violation Final Assessed Penalty (adjusted for limits) \$7,875

Economic Benefit Worksheet

Respondent Zack Griffin dba Big Zacks Tire Shack 2
Case ID No. 47892
Reg. Ent. Reference No. RN106596141
Media Waste Tires
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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	\$500	30-Aug-2013	11-Jul-2014	0.86	\$22	n/a	\$22
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 ensure manifests are completed and maintained at the Facility to document the removal and management of all scrap tires generated at the Facility. Date Required is the investigation date. 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 \$22

Screening Date 28-Oct-2013

Docket No. 2013-2016-MSW-E

PCW

Respondent Zack Griffin dba Big Zacks Tire Shack 2

Policy Revision 3 (September 2011)

Case ID No. 47892

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106596141

Media [Statute] Waste Tires

Enf. Coordinator Keith Frank

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 328.56(d)(4)

Violation Description

Failed to have an effective vector control program for scrap tires stored outside.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 1

59 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,750

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 \$1,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$1,838

This violation Final Assessed Penalty (adjusted for limits) \$1,838

Economic Benefit Worksheet

Respondent Zack Griffin dba Big Zacks Tire Shack 2
Case ID No. 47892
Reg. Ent. Reference No. RN106596141
Media Waste Tires
Violation No. 3

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)	\$500	30-Aug-2013	11-Jul-2014	0.86	\$22	n/a	\$22

Notes for DELAYED costs Estimated cost to establish a vector control program and utilize vector control measures. Date Required is the investigation date. 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** \$22

The TCEQ is committed to accessibility.

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



Compliance History Report

PUBLISHED Compliance History Report for CN604260836, RN106596141, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN604260836, Zack Griffin

Classification: SATISFACTORY **Rating:** 17.00

Regulated Entity: RN106596141, Big Zacks Tire Shack 2

Classification: SATISFACTORY **Rating:** 17.00

Complexity Points:

Repeat Violator: NO

CH Group: 14 - Other

Location: 1001 E RANCIER AVE KILLEEN, TX 76541-3659, BELL COUNTY

TCEQ Region: REGION 09 - WACO

ID Number(s):

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: October 28, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 28, 2008 to October 28, 2013

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

Name: Keith Frank

Phone: (512) 239-1203

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.

1 Date: 03/29/2013 (1057107)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Failure to prevent the unauthorized disposal of municipal solid waste.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.56(a)(1)

Description: Failure to obtain a generator registration number with the TCEQ prior to storing more than 500 tires at the facility.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.56(c)

Description: Failure to use manifests or other records to document the removal and management of all scrap tires generated on-site.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 328, SubChapter F 328.56(d)(4)

Description: Failure to monitor tires stored outside for vectors at least once every two weeks and apply appropriate vector control measures.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter F 328.63(c)

Description: Failure to register as a scrap tire facility prior to processing used or scrap tires.

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
ZACK GRIFFIN
DBA BIG ZACKS TIRE SHACK 2;
RN106596141**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-2016-MSW-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Zack Griffin d/b/a Big Zacks Tire Shack 2 ("Respondent").

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

FINDINGS OF FACT

1. Respondent operates a used tire sales and scrap tire storage facility located at 1001 East Rancier Avenue in Killeen, Bell County, Texas (the "Facility"). The Facility involves the management and/or the disposal of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on August 30, 2013, a TCEQ Waco Regional Office investigator documented that Respondent:
 - a. Failed to obtain a generator registration for the Facility prior to storing more than 500 used or scrap tires at the Facility. Specifically, Respondent was storing approximately 1,000 scrap tires at the Facility;
 - b. Failed to use manifests, work orders, invoices, or other records to document the removal and management of all scrap tires generated at the Facility; and
 - c. Failed to have an effective vector control program for scrap tires stored outside.
3. Respondent received notice of the violations on or about October 13, 2013.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Zack Griffin d/b/a Big Zacks Tire Shack 2" (the "EDPRP") in the TCEQ Chief Clerk's office on February 25, 2014.
5. By letter dated February 25, 2014, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on February 26, 2014, as evidenced by the signature on the card.

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

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 ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain a generator registration for the Facility prior to storing more than 500 used or scrap tires at the Facility, in violation of 30 TEX. ADMIN. CODE § 328.56(a)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to use manifests, work orders, invoices, or other records to document the removal and management of all scrap tires generated at the Facility, in violation of 30 TEX. ADMIN. CODE § 328.56(c).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to have an effective vector control program for scrap tires stored outside, in violation of 30 TEX. ADMIN. CODE § 328.56(d)(4).
5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
6. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of seventeen thousand five hundred eighty-seven dollars (\$17,587.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of seventeen thousand five hundred eighty-seven dollars (\$17,587.00) 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 Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Zack Griffin d/b/a Big Zacks Tire Shack 2; Docket No. 2013-2016-MSW-E" to:

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

3. Respondent shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Respondent shall:
 - i. Cease accepting any additional scrap tires at the Facility until proper authorization is obtained; and
 - ii. Begin vector monitoring and utilization of vector control measures, in accordance with 30 TEX. ADMIN. CODE § 328.56.
 - b. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Register the Facility as a generator of used or scrap tires, in accordance with 30 TEX. ADMIN. CODE § 328.56; and
 - ii. Ensure manifests are completed and maintained at the Facility to document the removal and management of all scrap tires generated at the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.56.
 - c. Within 60 days after the effective date of this Order, Respondent shall remove all unauthorized used or scrap tires at the Facility and dispose of them at an authorized facility.
 - d. Within 75 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.c. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

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:

David Mann, Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF TAMMY L. MITCHELL

STATE OF TEXAS

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COUNTY OF TRAVIS

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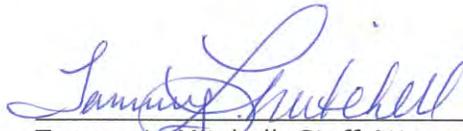
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"My name is Tammy Mitchell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Zack Griffin d/b/a Big Zacks Tire Shack 2" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 25, 2014.

The EDPRP was mailed to Respondent's last known address on February 25, 2014, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on February 26, 2014, as evidenced by the signature on the card.

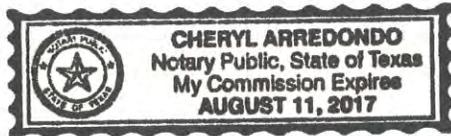
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



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

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

Given under my hand and seal of office this 10th day of June, A.D. 2014.



Notary without Bond



Notary Signature