

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48521
Wesley Joseph Martin III d/b/a A-Original Tire Man
RN106823826
Docket No. 2014-0503-MSW-E

Order Type:

Default Order

Media:

MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

206 Gilmer Street, Killeen, Bell County

Type of Operation:

tire service 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: January 30, 2015

Comments Received: None

Penalty Information

Total Penalty Assessed: \$11,812

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$11,812

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): June 14, 2013
Alleged that the Respondent stored more than 500 tires at the Facility and was not a registered tire generator.

Date(s) of Investigation: February 26, 2014

Date(s) of NOV(s): August 2, 2013

Date(s) of NOE(s): May 20, 2014

Violation Information

Failed to prevent the unauthorized transportation and disposal of municipal solid waste ("MSW") (approx. 5,500 scrap tires) [30 TEX. ADMIN. CODE §§ 328.56(b) and 330.9(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 30 days:
 - a. Develop and implement procedures to ensure that all scrap tires or scrap tire pieces are transported by a registered transporter to an authorized scrap tire facility; and
 - b. Develop and implement procedures to ensure use of manifests to document the removal and management of all scrap tires generated at the Facility.
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: August 27, 2014; November 3, 2014

Date Green Card(s) Signed: August 29, 2014; November 4, 2014

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: David A. Terry, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Steven Van Landingham, Enforcement Division, (512) 239-5717

TCEQ Regional Contact: David Mann, Waco Regional Office, (512) 339-2929

Respondent Contact: Wesley Joseph Martin III, 3911 Madison Drive, Killeen, Texas 76543-5271

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	26-Mar-2014		
	PCW	23-Oct-2014	Screening	3-Apr-2014
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Wesley Joseph Martin III dba A-Original Tire Man		
Reg. Ent. Ref. No.	RN106823826		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	48521	No. of Violations	1
Docket No.	2014-0503-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steven Van Landingham
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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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	\$562
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Notes	Enhancement for one NOV with the same or similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondents do 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	\$68	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,812
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$11,812
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,812
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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	\$11,812
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Screening Date 3-Apr-2014

Docket No. 2014-0503-MSW-E

PCW

Respondent Wesley Joseph Martin III dba A-Original Tire Man

Policy Revision 3 (September 2011)

Case ID No. 48521

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106823826

Media [Statute] Municipal Solid Waste

Enf. Coordinator Steven Van Landingham

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 judgments 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 the same or similar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 3-Apr-2014 **Docket No.** 2014-0503-MSW-E **PCW**
Respondent Wesley Joseph Martin III dba A-Original Tire Man *Policy Revision 3 (September 2011)*
Case ID No. 48521 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN106823826
Media [Statute] Municipal Solid Waste
Enf. Coordinator Steven Van Landingham

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 checked="" type="checkbox"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark w th 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 Wesley Joseph Martin III dba A-Original Tire Man
Case ID No. 48521
Reg. Ent. Reference No. RN106823826
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	14-Jun-2013	20-Oct-2014	1.35	\$68	n/a	\$68
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 implement procedures to ensure all scrap tires are transported by a registered transporter to a registered facility and to maintain manifests documenting the removal and management of all scrap tires generated at the Facility. The date required is the initial investigation date, and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$1,000	TOTAL	\$68
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Compliance History Report

PUBLISHED Compliance History Report for CN604537928, RN106823826, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN604537928, Wesley Joseph Martin III	Classification: SATISFACTORY	Rating: 26.00
Regulated Entity:	RN106823826, A-ORIGINAL TIRE MAN	Classification: SATISFACTORY	Rating: 26.00
Complexity Points:	0	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	206 GILMER ST KILLEEN, TX 76541-5040, BELL COUNTY		
TCEQ Region:	REGION 09 - WACO		
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER R09106823826		

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

Date Compliance History Report Prepared: April 03, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 03, 2009 to April 03, 2014

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

Name: Steven Van Landingham

Phone: (512) 239-5717

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:	08/02/2013	(1099787)		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 328, SubChapter F 328.56(a)(1)			

Description: Failure to obtain a registration number from the executive director prior to storing more than 500 scrap tires
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 328, SubChapter F 328.56(b)
 Description: Failure to ensure that scrap tires or scrap tire pieces are transported by a registered transporter to an authorized 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 scrap tires
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 328, SubChapter F 328.56(d)(2)
 30 TAC Chapter 328, SubChapter F 328.60(a)
 Description: Failure of a generator to store less than or equal to 500 scrap tires on the ground, or 2,000 scrap tires in trailers without obtaining a scrap tire storage registration
 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 and utilize appropriate vector control measures at least once every two weeks
 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 scrap tires
 Self Report? NO Classification: Minor
 Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)(1)
 Description: Failure to clearly mark or label a used oil container with the words, "Used Oil"
 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

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
WESLEY JOSEPH MARTIN III
DBA A-ORIGINAL TIRE MAN;
RN106823826**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2014-0503-MSW-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended 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 Wesley Joseph Martin III d/b/a A-Original Tire Man ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a tire service facility located at 206 Gilmer Street in Killeen, Bell County, Texas (the "Facility"). The Facility contains and/or involves the management of municipal solid waste ("MSW"), including used or scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on February 26, 2014, an investigator documented that Respondent failed to prevent the unauthorized transportation and disposal of MSW. Specifically, approximately 5,500 scrap tires were transported from the Facility by an unauthorized transporter.
3. 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 Wesley Joseph Martin III and Donald Lecuer d/b/a A-Original Tire Man" (the "EDPRP") in the TCEQ Chief Clerk's office on August 27, 2014.
4. By letter dated August 27, 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 USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on August 29, 2014.
5. The Executive Director filed the "Executive Director's First Amended 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 Wesley Joseph Martin III and Lecure Donald d/b/a A-Original Tire Man" (the "EDFARP") in the TCEQ Chief Clerk's office on November 3, 2014.
6. By letter dated November 3, 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 EDFARP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDFARP on November 4, 2014.

7. More than 20 days have elapsed since Respondent received notice of the EDPRP and EDFARP. 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, Respondent failed to prevent the unauthorized transportation and disposal of MSW, in violation of 30 TEX. ADMIN. CODE §§ 328.56(b) and 330.9(a).
3. As evidenced by Findings of Fact Nos. 3 through 6, the Executive Director timely served Respondent with proper notice of the EDPRP and EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 7, 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.
5. 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.
6. An administrative penalty in the amount of eleven thousand eight hundred twelve dollars (\$11,812.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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 eleven thousand eight hundred twelve dollars (\$11,812.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.
2. The 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 TCEQ and shall be sent with the notation "Re: Wesley Joseph Martin III d/b/a A-Original Tire Man; Docket No. 2014-0503-MSW-E" to:

Financial Administration Division, Revenue Operations 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. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Develop and implement procedures to ensure that all scrap tires or scrap tire pieces are transported by a registered transporter to an authorized scrap tire facility, in accordance with 30 TEX. ADMIN. CODE §§ 328.56 and 330.9; and
 - ii. Develop and implement procedures to ensure use of manifests to document the removal and management of all scrap tires generated at the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.56.
 - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. and 3.a.ii. The certification required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

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. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.

7. 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.
8. 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.
9. The Chief Clerk shall provide a copy of this fully executed 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 DAVID A. TERRY

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is David A. Terry. 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 Wesley Joseph Martin III and Donald Lecuer d/b/a A-Original Tire Man" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on August 27, 2014.

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On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended 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 Wesley Joseph Martin III and Lecure Donald d/b/a A-Original Tire Man" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on November 3, 2014.

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

David A. Terry, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Subscribed and sworn to before me on this 12th day of January, A.D. 2015.

Notary Public, State of Texas

