Executive Summary – Enforcement Matter – Case No. 49612
AG-LAND DISTRIBUTION, INC.
RN107798126
Docket No. 2014-1670-MSW-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
MSW
Small Business:
No
Location(s) Where Violation(s) Occurred:
AG Land Distribution, 2015 East 84th Street, Lubbock, Lubbock County
Type of Operation:
Tire processing facility
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: June 5, 2015
Comments Received: No

Penalty Information

Total Penalty Assessed: $12,625
Amount Deferred for Expedited Settlement: $2,525
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $300
Total Due to General Revenue: $9,800
Payment Plan: 35 payments of $280 each
Supplemental Environmental Project ("SEP") Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - Unclassified
Site/RN - N/A
Major Source: Yes
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 49612
AG-LAND DISTRIBUTION, INC.
RN107798126
Docket No. 2014-1670-MSW-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: October 1, 2014
Date(s) of NOE(s): October 24, 2014

Violation Information

1. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers. Specifically, approximately 800 scrap tires were stored on the ground at the Facility [30 TEX. ADMIN. CODE § 328.63(b)(2)].

2. Failed to provide notification to jurisdictional fire authority for a fire protection system [30 TEX. ADMIN. CODE § 328.63(d)(4)].

3. Failed to monitor for vector control and apply appropriate vector control measures when needed, but in no event less than once every two weeks [30 TEX. ADMIN. CODE § 328.63(d)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On November 10, 2014, the Respondent reduced the number of scrap tires at the Facility to 500 or fewer tires on the ground.

Technical Requirements:

The Order will also require the Respondent to:

a. Within 30 days:

i. Establish a vector control program; and

ii. Develop a Fire Prevention and Suppression Plan and submit it to the local fire prevention authority having jurisdiction over the Facility for review and coordination.

b. Within 45 days, submit written certification demonstrating compliance with a.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 49612
AG-LAND DISTRIBUTION, INC.
RN107798126
Docket No. 2014-1670-MSW-E

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Steven Van Landingham, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-5717; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Troy Pike, President, AG-LAND DISTRIBUTION, INC., 5102 Hanover Street, Lubbock, Texas 79416
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014) — *PCW Revision March 26, 2014*

TCEQ

DATES						
Assigned	20-Oct-2014					
PCW	6-Jan-2015	**Screening**	27-Oct-2014	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	AG-LAND DISTRIBUTION, INC.		
Reg. Ent. Ref. No.	RN107798126		
Facility/Site Region	2-Lubbock	**Major/Minor Source**	Major

CASE INFORMATION

Enf./Case ID No.	49612	**No. of Violations**	3
Docket No.	2014-1670-MSW-E	**Order Type**	1660
Media Program(s)	Waste Tires	**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*: **$13,000**

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*: **-$375**

Economic Benefit — **0.0%** Enhancement* — *Subtotal 6*: **$0**

Total EB Amounts $89
Estimated Cost of Compliance $4,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: **$12,625**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: **$12,625**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: **$12,625**

DEFERRAL — **20.0%** Reduction — *Adjustment*: **-$2,525**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: **$10,100**

Screening Date 27-Oct-2014 **Docket No.** 2014-1670-MSW-E **PCW**

Respondent AG-LAND DISTRIBUTION, INC.

Policy Revision 4 (April 2014)

Case ID No. 49612

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107798126

Media [Statute] Waste Tires

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgments or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 0%

Screening Date 27-Oct-2014 **Docket No.** 2014-1670-MSW-E **PCW**

Respondent AG-LAND DISTRIBUTION, INC. *Policy Revision 4 (April 2014)*

Case ID No. 49612 *PCW Revision March 26, 2014*

Reg. Ent. Reference No. RN107798126

Media [Statute] Waste Tires

Enf. Coordinator Steven Van Landingham

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 328.63(b)(2)

Violation Description Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers. Specifically, approximately 800 scrap tires were stored on the ground at the Facility.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR	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: 1 — 26 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One monthly event is recommended based on documentation of the violation during the October 1, 2014 investigation to the October 27, 2014 screening date.

Good Faith Efforts to Comply

10.0% Reduction $375

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

Notes: The Respondent came into compliance on November 10, 2014, after the Notice of Enforcement dated October 24, 2014.

Violation Subtotal $3,375

Economic Benefit (EB) for this violation

Estimated EB Amount $8

Statutory Limit Test

Violation Final Penalty Total $3,375

This violation Final Assessed Penalty (adjusted for limits) $3,375

Economic Benefit Worksheet

Respondent AG-LAND DISTRIBUTION, INC.
Case ID No. 49612
Req. Ent. Reference No. RN107798126
Media Waste Tires
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$1,500	1-Oct-2014	10-Nov-2014	0.11	$8	n/a	$8
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to reduce the number of tires to less than 500 used or scrap tires on the ground at the Facility. The date required is the investigation date, and the final date is the compliance date.						
Avoided Costs	**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $1,500

TOTAL $8

Screening Date 27-Oct-2014 **Docket No.** 2014-1670-MSW-E **PCW**

Respondent AG-LAND DISTRIBUTION, INC.

Policy Revision 4 (April 2014)

Case ID No. 49612

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107798126

Media [Statute] Waste Tires

Enf. Coordinator Steven Van Landingham

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 328.63(d)(4)

Violation Description Failed to provide notification to jurisdictional fire authority for a fire protection system.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $17,500

$7,500

Violation Events

Number of Violation Events 1 — 26 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $7,500

One monthly event is recommended based on documentation of the violation during the October 1, 2014 investigation date to the October 27, 2014 screening date.

Good Faith Efforts to Comply

0.0% — Reduction $0

	Before NOE/NOV	NOE/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

Estimated EB Amount $32

Statutory Limit Test

Violation Final Penalty Total $7,500

This violation Final Assessed Penalty (adjusted for limits) $7,500

Economic Benefit Worksheet

Respondent AG-LAND DISTRIBUTION, INC.
Case ID No. 49612
Reg. Ent. Reference No. RN107798126
Media Waste Tires
Violation No. 2

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)	$1,000	1-Oct-2014	25-May-2015	0.65	$32	n/a	$32
Notes for DELAYED costs	Estimated cost to develop a Fire Prevention and Suppression Plan and submit it to the local fire prevention authority. The date required is the investigation date, and the final date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $1,000

TOTAL $32

Screening Date 27-Oct-2014 **Docket No.** 2014-1670-MSW-E **PCW**

Respondent AG-LAND DISTRIBUTION, INC.

Policy Revision 4 (April 2014)

Case ID No. 49612

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107798126

Media [Statute] Waste Tires

Enf. Coordinator Steven Van Landingham

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 328.63(d)(3)

Violation Description Failed to monitor for vector control and apply appropriate vector control measures when needed, but in no event less than once every two weeks.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR	Harm		
Release	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 that 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 — 26 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 NOE/NOV	NOE/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

Estimated EB Amount $16

Statutory Limit Test

Violation Final Penalty Total $1,750

This violation Final Assessed Penalty (adjusted for limits) $1,750

Economic Benefit Worksheet

Respondent AG-LAND DISTRIBUTION, INC.
Case ID No. 49612
Reg. Ent. Reference No. RN107798126
Media Waste Tires
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	1-Oct-2014	25-May-2015	0.65	$16	n/a	$16
Notes for DELAYED costs	Estimated cost to establish a vector control program. 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 $500

TOTAL $16

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

PENDING Compliance History Report for CN604057208, RN107798126, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604057208, AG-LAND DISTRIBUTION, INC. **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN107798126, AG LAND DISTRIBUTION **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 2015 E 84TH ST LUBBOCK, TX 79404-7512, LUBBOCK COUNTY

TCEQ Region: REGION 02 - LUBBOCK

ID Number(s): **MUNICIPAL SOLID WASTE NON PERMITTED** ID NUMBER R02107798126

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: October 29, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 29, 2009 to October 29, 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.
N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING AG-LAND DISTRIBUTION, INC. RN107798126	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2014-1670-MSW-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding AG-LAND DISTRIBUTION, INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a tire processing facility at 2015 East 84th Street in Lubbock, Lubbock County, Texas (the "Facility").

2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.

3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 29, 2014.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twelve Thousand Six Hundred Twenty-Five Dollars ($12,625) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Dollars ($300) of the administrative penalty and Two Thousand Five Hundred Twenty-Five Dollars

($2,525) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand Eight Hundred Dollars ($9,800) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Eighty Dollars ($280) each. The next 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 the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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 failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

9. The Executive Director recognizes that on November 10, 2014, the Respondent reduced the number of scrap tires at the Facility to 500 or fewer tires on the ground.

10. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. 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.

12. 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.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to obtain a scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, in violation of 30 TEX. ADMIN. CODE § 328.63(b)(2), as documented during an investigation

conducted on October 1, 2014. Specifically, approximately 800 scrap tires were stored on the ground at the Facility.

2. Failed to provide notification to jurisdictional fire authority for a fire protection system, in violation of 30 TEX. ADMIN. CODE § 328.63(d)(4), as documented during an investigation conducted on October 1, 2014.

3. Failed to monitor for vector control and apply appropriate vector control measures when needed, but in no event less than once every two weeks, in violation of 30 TEX. ADMIN. CODE § 328.63(d)(3), as documented during an investigation conducted on October 1, 2014.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: AG-LAND DISTRIBUTION, INC., Docket No. 2014-1670-MSW-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order:

      i. Establish a vector control program, in accordance with 30 TEX. ADMIN. CODE § 328.63; and

      ii. Develop a Fire Prevention and Suppression Plan and submit it to the local fire prevention authority having jurisdiction over the Facility for review and coordination, in accordance with 30 TEX. ADMIN. CODE § 328.63.

   b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation

including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the 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.

7. 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

6/24/15
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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, any falsification of any compliance documents may result in criminal prosecution.

Signature

3·19·15
Date

Troy PIKE
Name (Printed or typed)
Authorized Representative of
AG-LAND DISTRIBUTION, INC.

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.