

**Executive Summary – Enforcement Matter – Case No. 49656**  
**Brad Callaghan dba Callaghan Enterprises**  
**RN107697195**  
**Docket No. 2014-1705-IHW-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

IHW

**Small Business:**

Yes

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

Callaghan Enterprises, 1909 IH-30 West, Unit 4D, Greenville, Hunt County

**Type of Operation:**

Precious metals recovery facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** May 1, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$27,500

**Amount Deferred for Expedited Settlement:** \$5,500

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$3,059

**Total Due to General Revenue:** \$18,941

Payment Plan: 31 payments of \$611 each

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Unclassified

Site/RN - Unclassified

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 49656**  
**Brad Callaghan dba Callaghan Enterprises**  
**RN107697195**  
**Docket No. 2014-1705-IHW-E**

***Investigation Information***

**Complaint Date(s):** May 15, 2014

**Complaint Information:** Elevated levels of metal contaminants to soil at this facility and adjoining property were reported. It was also reported there was a fish kill at a privately owned nearby pond.

**Date(s) of Investigation:** May 23, 2014

**Date(s) of NOE(s):** September 30, 2014

***Violation Information***

1. Failed to conduct a hazardous waste determination and waste classification. Specifically, a hazardous waste determination was not conducted on filter cake and excavated contaminated soil placed in two roll-off containers [30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11].
2. The Respondent caused the unauthorized discharge of industrial solid waste ("ISW"). Specifically, areas of stained soil and dead and stressed vegetation were observed on the south perimeter of the Facility storage unit; near a roll-off container containing contaminated soil; along the Facility property line; and on adjacent property near the property boundary. In addition, analytical results of soil sampled from these areas detected elevated levels of pH and some Resource Conservation and Recovery Act 8 metals [30 TEX. ADMIN. CODE § 335.4].
3. Failed to maintain records of all hazardous waste and ISW activities. Specifically, records of ISW generation, storage, processing, and disposal activities, including but not limited to, quantities of waste generated and/or processed on-site; the description, character, and classification of each waste stream; the location and description of any solid waste management units; the quantity of material shipped off-site for disposal and/or back to the parts supplier were not available for review [30 TEX. ADMIN. CODE § 335.9(a)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately, cease unauthorized discharges of any additional ISW at the Facility.
- b. Within 30 days:
  - i. Conduct a hazardous waste determination and waste classification on excavated contaminated soil;

**Executive Summary – Enforcement Matter – Case No. 49656**  
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- ii. Dispose of filter cake and contaminated soil contained in two roll-off containers at the Facility at an authorized facility; and
  - iii. Begin maintaining records of all ISW activities, including but not limited to, quantities of waste generated and/or processed on-site; the description, character, and classification of each waste stream; the location and description of any solid waste management units; the quantity of material shipped off-site for disposal and/or back to the parts supplier.
- c. Within 90 days, submit an Affected Property Assessment Report. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program.
- d. Within 105 days, submit written certification to demonstrate compliance with a. through c.

***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

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Thomas Greimel, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-5690; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Brad Callaghan, Owner, Brad Callaghan dba Callaghan Enterprises, 9296 Farm-to-Market Road 751, Quinlan, Texas 75474  
**Respondent's Attorney:** Walter D. James, III, James PLLC, 1117 Glade Road, Colleyville, Texas 76034





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	6-Oct-2014	<b>Screening</b>	6-Oct-2014	<b>EPA Due</b>	
	<b>PCW</b>	13-Aug-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Brad Callaghan dba Callaghan Enterprises
<b>Reg. Ent. Ref. No.</b>	RN107697195
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	49656	<b>No. of Violations</b>	3
<b>Docket No.</b>	2014-1705-IHW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Thomas Greimel
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$27,500**

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

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

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

Notes: No adjustment for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts	\$1,347
Estimated Cost of Compliance	\$24,400

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$27,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$27,500**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$27,500**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$5,500**

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** **\$22,000**

Screening Date 6-Oct-2014

Docket No. 2014-1705-IHW-E

PCW

Respondent Brad Callaghan dba Callaghan Enterprises

Policy Revision 4 (April 2014)

Case ID No. 49656

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107697195

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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%

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)

No

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 6-Oct-2014

Docket No. 2014-1705-IHW-E

PCW

Respondent Brad Callaghan dba Callaghan Enterprises

Policy Revision 4 (April 2014)

Case ID No. 49656

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107697195

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 335.62, 335.503, and 335.504 and 40 Code of Federal Regulations § 262.11

Violation Description Failed to conduct a hazardous waste determination and waste classification. Specifically, a hazardous waste determination was not conducted on filter cake and excavated contaminated soil placed in two roll-off containers at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 136 Number of violation days

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event. 'single event' is marked with an 'x'.

Violation Base Penalty \$7,500

Two single events are recommended (one per waste stream).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A. 'N/A' is marked with an '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 \$110

Violation Final Penalty Total \$7,500

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

## Economic Benefit Worksheet

**Respondent** Brad Callaghan dba Callaghan Enterprises  
**Case ID No.** 49656  
**Reg. Ent. Reference No.** RN107697195  
**Media Violation No.** 1 Industrial and Hazardous Waste

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$2,000	23-May-2014	30-Jun-2015	1.10	\$110	n/a	\$110

#### Notes for DELAYED costs

Estimated cost to perform a waste determination and classification on two waste streams. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

### Avoided Costs

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

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

\$2,000

**TOTAL**

\$110

Screening Date 6-Oct-2014

Docket No. 2014-1705-IHW-E

PCW

Respondent Brad Callaghan dba Callaghan Enterprises

Policy Revision 4 (April 2014)

Case ID No. 49656

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107697195

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Greimel

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 335.4

Violation Description

The Respondent caused the unauthorized discharge of industrial solid waste (ISW). Specifically, areas of stained soil and dead and stressed vegetation were observed on the south perimeter of the Facility storage unit; near a roll-off container containing contaminated soil; along the Facility property line; and on adjacent property near the property boundary. In addition, analytical results of soil sampled from these areas detected elevated levels of pH and Resource Conservation and Recovery Act 8 metals.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or the environment as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 5

136 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
single event		

Violation Base Penalty \$18,750

Five monthly events are recommended based on the documentation of the violation from the May 23, 2014 investigation date to the October 6, 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 \$18,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,104

Violation Final Penalty Total \$18,750

This violation Final Assessed Penalty (adjusted for limits) \$18,750

## Economic Benefit Worksheet

**Respondent** Brad Callaghan dba Callaghan Enterprises  
**Case ID No.** 49656  
**Reg. Ent. Reference No.** RN107697195  
**Media Violation No.** Industrial and Hazardous Waste 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$20,000	23-May-2014	30-Jun-2015	1.10	\$1,104	n/a	\$1,104
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to assess and remediate contaminated media at the Facility. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

### Avoided Costs

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

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

\$20,000

**TOTAL**

\$1,104

Screening Date 6-Oct-2014

Docket No. 2014-1705-IHW-E

PCW

Respondent Brad Callaghan dba Callaghan Enterprises

Policy Revision 4 (April 2014)

Case ID No. 49656

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107697195

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Thomas Grelmel

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 335.9(a)(1)

Violation Description

Failed to maintain records of all hazardous waste and ISW activities. Specifically, records of ISW generation, storage, processing, and disposal activities, including but not limited to, quantities of waste generated and/or processed on-site; the description, character, and classification of each waste stream; the location and description of any solid waste management units; the quantity of material shipped off-site for disposal and/or back to the parts supplier were not available for review.

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 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

136 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,250

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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$132

Violation Final Penalty Total \$1,250

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

## Economic Benefit Worksheet

**Respondent** Brad Callaghan dba Callaghan Enterprises  
**Case ID No.** 49656  
**Reg. Ent. Reference No.** RN107697195  
**Media** Industrial and Hazardous Waste  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$2,400	23-May-2014	30-Jun-2015	1.10	\$132	n/a	\$132
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records of all industrial solid waste activities. The Date Required is the investigation date. 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

\$2,400

**TOTAL**

\$132

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.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN603424946, RN107697195, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

<b>Customer, Respondent, or Owner/Operator:</b>	CN603424946, Callaghan, Brad	<b>Classification:</b>	UNCLASSIFIED	<b>Rating:</b>	-----
<b>Regulated Entity:</b>	RN107697195, Callaghan Enterprises	<b>Classification:</b>	UNCLASSIFIED	<b>Rating:</b>	-----
<b>Complexity Points:</b>	0	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	1909 IH-30 W, UNIT 4D, GREENVILLE, TX 75402-4665, HUNT COUNTY				
<b>TCEQ Region:</b>	REGION 04 - DFW METROPLEX				
<b>ID Number(s):</b>					

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

**Date Compliance History Report Prepared:** December 02, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 02, 2009 to December 02, 2014

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

**Name:** Thomas Greimel

**Phone:** (512) 239-5690

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
N/A

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
BRAD CALLAGHAN DBA  
CALLAGHAN ENTERPRISES  
RN107697195**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2014-1705-IHW-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 Brad Callaghan dba Callaghan Enterprises ("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, represented by Mr. Walter D. James III, attorney, with James PLLC, together stipulate that:

1. The Respondent operates a precious metals recovery facility at 1909 Interstate Highway 30 West, Unit 4D, in Greenville, Hunt County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste ("ISW") 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 5, 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 Twenty-Seven Thousand Five Hundred Dollars (\$27,500) is assessed by the Commission in settlement of the violations alleged

in Section II ("Allegations"). The Respondent has paid the initial payment Six Hundred Fifteen Dollars (\$615) of the administrative penalty, plus four additional payments of Six Hundred Eleven Dollars (\$611) each, for a total payment of Three Thousand Fifty-Nine Dollars (\$3,059); and Five Thousand Five Hundred Dollars (\$5,500) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with 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 Eighteen Thousand Nine Hundred Forty-One Dollars (\$18,941) of the administrative penalty shall be payable in 31 monthly payments of Six Hundred Eleven Dollars (\$611) 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 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.
10. 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.
11. 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 operator of the Facility, the Respondent is alleged to have:

1. Failed to conduct a hazardous waste determination and waste classification, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 262.11, as documented during an investigation conducted on May 23, 2014. Specifically, a hazardous waste determination was not conducted on filter cake and excavated contaminated soil placed in two roll-off containers.
2. The Respondent caused the unauthorized discharge of ISW, in violation of 30 TEX. ADMIN. CODE § 335.4, as documented during an investigation conducted on May 23, 2014. Specifically, areas of stained soil and dead and stressed vegetation were observed on the south perimeter of the Facility storage unit; near a roll-off container containing contaminated soil; along the Facility property line; and on adjacent property near the property boundary. In addition, analytical results of soil sampled from these areas detected elevated levels of pH and some Resource Conservation and Recovery Act 8 metals.
3. Failed to maintain records of all hazardous waste and ISW activities, in violation of 30 TEX. ADMIN. CODE § 335.9(a)(1), as documented during an investigation conducted on May 23, 2014. Specifically, records of ISW generation, storage, processing, and disposal activities, including but not limited to, quantities of waste generated and/or processed on-site; the description, character, and classification of each waste stream; the location and description of any solid waste management units; the quantity of material shipped off-site for disposal and/or back to the parts supplier were not available for review.

### 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: Brad Callaghan dba Callaghan Enterprises, Docket No. 2014-1705-IHW-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. Immediately upon the effective date of this Agreed Order, cease unauthorized discharges of any additional ISW at the Facility.
- b. Within 30 days after the effective date of this Agreed Order:
  - i. Conduct a hazardous waste determination and waste classification on excavated contaminated soil, in accordance with 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504 and 40 CFR § 262.11;
  - ii. Dispose of filter cake and contaminated soil contained in two roll-off containers at the Facility at an authorized facility; and
  - iii. Begin maintaining records of all ISW activities, including but not limited to, quantities of waste generated and/or processed on-site; the description, character, and classification of each waste stream; the location and description of any solid waste management units; the quantity of material shipped off-site for disposal and/or back to the parts supplier; in accordance with 30 TEX. ADMIN. CODE § 335.9.
- c. Within 90 days after the effective date of this Agreed Order, submit an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and Institutional Controls under Subchapter F. Submit the report to:

Corrective Action Section  
Remediation Division, MC 221  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- d. Within 105 days after the effective date of the 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 Nos. 2.a. through 2.c. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Patricia M. Mawie J  
For the Executive Director

1/22/12  
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.

Brad Callaghan  
Signature

3-10-15  
Date

Brad Callaghan  
Name (Printed or typed)  
Authorized Representative of  
Brad Callaghan dba Callaghan Enterprises

OWNER  
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.