

**Executive Summary – Enforcement Matter – Case No. 50416**  
**DELARA LANDSCAPING, INC.**  
**RN106907991**  
**Docket No. 2015-0611-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM – MSW and MHW

**Small Business:**

Yes

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

De Lara Landscaping, 5515 Gregg Lane, Manor, Travis County

**Type of Operation:**

Mulching/composting operation

**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:** August 14, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$14,501

**Amount Deferred for Expedited Settlement:** \$2,900

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

**Total Paid to General Revenue:** \$401

**Total Due to General Revenue:** \$11,200

Payment Plan: 35 payments of \$320 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. 50416**  
**DELARA LANDSCAPING, INC.**  
**RN106907991**  
**Docket No. 2015-0611-MLM-E**

***Investigation Information***

**Complaint Date(s):** February 4, 2015

**Complaint Information:** Alleged the Respondent was operating without authorization.

**Date(s) of Investigation:** March 6, 2015

**Date(s) of NOE(s):** April 10, 2015

***Violation Information***

1. Caused, suffered, allowed or permitted the unauthorized disposal of municipal hazardous waste. Specifically, approximately two cubic yards of paint and solvent waste was disposed at the Facility [30 TEX. ADMIN. CODE § 335.4].
2. Failed to submit a Notice of Intent to operate a recycling facility to the Executive Director at least 90 days prior to engaging in recycling activities [30 TEX. ADMIN. CODE § 328.5(b)].
3. Failed to establish and maintain financial assurance for closure of a recycling facility that stores combustible materials outdoors [30 TEX. ADMIN. CODE § 328.5(d) and (f)(3)].
4. Failed to have a fire prevention and suppression plan. Specifically, the Respondent had not made available a fire prevention and suppression plan to the local fire prevention authority having jurisdiction over the Facility for review and coordination [30 TEX. ADMIN. CODE § 328.5(h)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately, cease processing, storage, and disposal of any additional mulch and compost at the Facility.
- b. Within 30 days, remove all municipal hazardous waste from the Facility and dispose of it at an authorized facility.
- c. Within 30 days:
  - i. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility;

**Executive Summary – Enforcement Matter – Case No. 50416  
DELARA LANDSCAPING, INC.  
RN106907991  
Docket No. 2015-0611-MLM-E**

- ii. Submit a notice of intent to operate a recycling facility and a cost closure estimate for the current amount of combustible materials stored outdoors; and
- iii. Prepare and submit a fire prevention and suppression plan to the local fire prevention authority
- d. In lieu of c., within 30 days, remove all municipal solid waste from the Facility and dispose of it at an authorized facility.
- e. Within 45 days, submit written certification to demonstrate compliance with a., b., and c. or d.

***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:** Jonathan Nguyen, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-5717; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Ricardo De Lara, Owner, DELARA LANDSCAPING, INC., 5515 Gregg Lane, Manor, Texas 78653  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	13-Apr-2015	<b>Screening</b>	21-Apr-2015	<b>EPA Due</b>	
	<b>PCW</b>	22-Apr-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	DELARA LANDSCAPING, INC.
<b>Reg. Ent. Ref. No.</b>	RN106907991
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	50416	<b>No. of Violations</b>	4
<b>Docket No.</b>	2015-0611-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Municipal Hazardous Waste	<b>Enf. Coordinator</b>	Michael Meyer
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$12,500</b>
---	-------------------	-----------------

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

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

<b>Compliance History</b>	<b>0.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
---------------------------	-------------------------	--------------------------------	------------

Notes: No adjustment for compliance history.

<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
--------------------	----	-------------------------	-------------------	------------

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
--	-------------------	------------

<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
-------------------------	--------------------------	-------------------	------------

Total EB Amounts	\$2,045
Estimated Cost of Compliance	\$3,156

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$12,500</b>
-----------------------------	-----------------------	-----------------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>16.0%</b>	<b>Adjustment</b>	<b>\$2,001</b>
---	--------------	-------------------	----------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation No. 3.

<b>Final Penalty Amount</b>	<b>\$14,501</b>
-----------------------------	-----------------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$14,501</b>
-----------------------------------	-------------------------------	-----------------

<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$2,900</b>
-----------------	------------------------	-------------------	-----------------

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

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$11,601</b>
------------------------	-----------------

**Screening Date** 21-Apr-2015

**Docket No.** 2015-0611-MLM-E

**PCW**

**Respondent** DELARA LANDSCAPING, INC.

Policy Revision 4 (April 2014)

**Case ID No.** 50416

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN106907991

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Michael Meyer

**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 21-Apr-2015

Docket No. 2015-0611-MLM-E

PCW

Respondent DELARA LANDSCAPING, INC.

Policy Revision 4 (April 2014)

Case ID No. 50416

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106907991

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 1

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

Violation Description The Respondent caused, suffered, allowed or permitted the unauthorized disposal of municipal hazardous waste ("MHW"). Specifically, approximately two cubic yards of paint and solvent waste was disposed at the Facility

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	5.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment has been 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 \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 46

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

Violation Base Penalty \$1,250

One quarterly event is recommended from the March 6, 2015 investigation date to the April 21, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/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 \$17

Violation Final Penalty Total \$1,450

This violation Final Assessed Penalty (adjusted for limits) \$1,450

## Economic Benefit Worksheet

**Respondent:** DELARA LANDSCAPING, INC.  
**Case ID No.:** 50416  
**Reg. Ent. Reference No.:** RN106907991  
**Media:** Municipal Solid Waste  
**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
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	\$500	6-Mar-2015	15-Nov-2015	0.70	\$17	n/a	\$17
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to remove all MHW from the site and dispose of it at an authorized facility. 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)**

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	\$500	<b>TOTAL</b>	\$17
----------------------------	-------	--------------	------

Screening Date 21-Apr-2015

Docket No. 2015-0611-MLM-E

PCW

Respondent DELARA LANDSCAPING, INC.

Policy Revision 4 (April 2014)

Case ID No. 50416

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106907991

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 328.5(b)

Violation Description Failed to submit a Notice of Intent ("NOI") to operate a recycling facility to the Executive Director at least 90 days prior to engaging in recycling activities.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			5.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 Number of violation days 46

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

Violation Base Penalty \$2,500

Two monthly events are recommended from the March 6, 2015 investigation date to the April 21, 2015 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$2,900

This violation Final Assessed Penalty (adjusted for limits) \$2,900

## Economic Benefit Worksheet

**Respondent** DELARA LANDSCAPING, INC.  
**Case ID No.** 50416  
**Reg. Ent. Reference No.** RN106907991  
**Media** Municipal Solid Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$250	6-Mar-2015	15-Nov-2015	0.70	\$9	n/a	\$9
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an NOI to operate a recycling operation. 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

\$250

**TOTAL**

\$9

Screening Date 21-Apr-2015

Docket No. 2015-0611-MLM-E

PCW

Respondent DELARA LANDSCAPING, INC.

Policy Revision 4 (April 2014)

Case ID No. 50416

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106907991

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 328.5(d) and 328.5(f)(3)

Violation Description Failed to establish and maintain financial assurance for closure of a recycling facility that stores combustible materials outdoors.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, 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 Number of violation days 365

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual (marked with x), single event.

Violation Base Penalty \$1,250

One annual event is recommended for the one year period preceding the March 6, 2015 investigation.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked 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 \$2,001

Violation Final Penalty Total \$1,450

This violation Final Assessed Penalty (adjusted for limits) \$1,450

## Economic Benefit Worksheet

**Respondent** DELARA LANDSCAPING, INC.  
**Case ID No.** 50416  
**Reg. Ent. Reference No.** RN106907991  
**Media** Municipal Solid Waste  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]	\$1,906	6-Mar-2014	6-Mar-2015	1.00	\$95	\$1,906	\$2,001
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to obtain and maintain financial assurance for closure of the Facility. The date required is one year prior to the investigation date, and the final date is the investigation date.

Approx. Cost of Compliance

\$1,906

**TOTAL**

\$2,001

Screening Date 21-Apr-2015

Docket No. 2015-0611-MLM-E

PCW

Respondent DELARA LANDSCAPING, INC.

Policy Revision 4 (April 2014)

Case ID No. 50416

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106907991

Media [Statute] Municipal Solid Waste

Enf. Coordinator Michael Meyer

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 328.5(h)

Violation Description

Failed to have a fire prevention and suppression plan. Specifically, the Respondent had not made available a fire prevention and suppression plan to the local fire prevention authority having jurisdiction over the Facility for review and coordination.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

46 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the March 6, 2015 investigation date to the April 21, 2015 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

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$8,701

This violation Final Assessed Penalty (adjusted for limits) \$8,701

## Economic Benefit Worksheet

**Respondent** DELARA LANDSCAPING, INC.  
**Case ID No.** 50416  
**Reg. Ent. Reference No.** RN106907991  
**Media** Municipal Solid Waste  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	6-Mar-2015	15-Nov-2015	0.70	\$17	n/a	\$17

Notes for DELAYED costs

Estimated cost to prepare and submit a fire suppression and prevention plan 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

\$500

**TOTAL**

\$17

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 CN604380980, RN106907991, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN604380980, DELARA LANDSCAPING, INC      **Classification:** UNCLASSIFIED      **Rating:** -----  
**Regulated Entity:** RN106907991, DE LARA LANDSCAPING      **Classification:** UNCLASSIFIED      **Rating:** -----  
**Complexity Points:** 3      **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** 5515 GREGG LN MANOR, TX 78653-3631, TRAVIS COUNTY  
**TCEQ Region:** REGION 11 - AUSTIN

**ID Number(s):**

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

**Date Compliance History Report Prepared:** April 15, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** April 15, 2010 to April 15, 2015

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

**Name:** Michael Meyer

**Phone:** (512) 239-4492

**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





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 Eleven Thousand Two Hundred Dollars (\$11,200) shall be payable in 35 monthly payments of Three Hundred Twenty Dollars (\$320) 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 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 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 owner and operator of the Facility, the Respondent is alleged to have:

1. Caused, suffered, allowed or permitted the unauthorized disposal of MHW, in violation of 30 TEX. ADMIN. CODE § 335.4, as documented during an investigation conducted on March 6, 2015. Specifically, approximately two cubic yards of paint and solvent waste was disposed at the Facility.

2. Failed to submit a Notice of Intent to operate a recycling facility to the Executive Director at least 90 days prior to engaging in recycling activities, in violation of 30 TEX. ADMIN. CODE § 328.5(b), as documented during an investigation conducted on March 6, 2015.
3. Failed to establish and maintain financial assurance for closure of a recycling facility that stores combustible materials outdoors, in violation of 30 TEX. ADMIN. CODE § 328.5(d) and (f)(3), as documented during an investigation conducted on March 6, 2015.
4. Failed to have a fire prevention and suppression plan, in violation of 30 TEX. ADMIN. CODE § 328.5(h), as documented during an investigation conducted on March 6, 2015. Specifically, the Respondent had not made available a fire prevention and suppression plan to the local fire prevention authority having jurisdiction over the Facility for review and coordination.

### 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: DELARA LANDSCAPING, INC., Docket No. 2015-0611-MLM-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 processing, storage, and disposal of any additional mulch and compost at the Facility.
  - b. Within 30 days after the effective date of this Agreed Order, remove all MHW from the Facility and dispose of it at an authorized facility.
  - c. Within 30 days after the effective date of this Agreed Order:

- i. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.5(d) to:

Financial Assurance Team, MC 184  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- ii. Submit a notice of intent to operate a recycling facility and a cost closure estimate for the current amount of combustibile materials stored outdoors, in accordance with 30 TEX. ADMIN. CODE § 328.5(b) and (c) to:

Municipal Solid Waste Permits Section, MC 184  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- iii. Prepare and submit a fire prevention and suppression plan to the local fire prevention authority, in accordance with 30 TEX. ADMIN. CODE §328.5(h).
- d. In lieu of Ordering Provision 2.c., within 30 days after the effective date of this Agreed Order, remove all MSW from the Facility and dispose of it at an authorized facility.
- e. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a., 2.b. and 2.c. or 2.d. 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  
Austin Regional Office  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

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.

DELARA LANDSCAPING, INC.  
DOCKET NO. 2015-0611-MLM-E  
Page 7

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

*Pamela Manville J*  
\_\_\_\_\_  
For the Executive Director

*7/7/16*  
\_\_\_\_\_  
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.

*Ricardo De Lara*  
\_\_\_\_\_  
Signature

*1-27-2016*  
\_\_\_\_\_  
Date

*RICARDO DE LARA*  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
DELARA LANDSCAPING, INC.

*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.