

Executive Summary – Enforcement Matter – Case No. 50035
Juan Ortiz dba El Valle Foreign & Domestic Parts
RN104470463
Docket No. 2015-0196-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

El Valle Foreign & Domestic Parts, 9407 West Expressway 83, Harlingen, Cameron County

Type of Operation:

Salvage yard with used auto parts

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 24, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,650

Amount Deferred for Expedited Settlement: \$1,530

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$170

Total Due to General Revenue: \$5,950

Payment Plan: 35 payments of \$170 each

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

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 50035
Juan Ortiz dba El Valle Foreign & Domestic Parts
RN104470463
Docket No. 2015-0196-MSW-E

Investigation Information

Complaint Date(s): October 16, 2014

Complaint Information: Complainant alleges that the business is not following regulations in regards to operating a junk yard. The business is alleged to tow vehicles for dismantling and parking them on the side of a road outside the complainant's property, where it leaks oil and other fluids. Complainant also alleges that there are chemical odors coming from the location.

Date(s) of Investigation: November 13, 2014

Date(s) of NOE(s): January 23, 2015

Violation Information

1. Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 3,187 scrap tires and approximately 43 cubic yards of MSW consisting of plastic, household waste, mattresses, box springs, sheetrock, wood, pallets and foam were disposed of at the Site [30 TEX. ADMIN. CODE § 330.15(c)].
2. Failed to label or clearly mark used oil storage containers with the words "Used Oil". Specifically, three used oil storage containers were not labeled [30 TEX. ADMIN. CODE § 324.1 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 279.22(c)(1)].
3. Failed to perform response action upon detection of a release of used oil. Specifically, the investigator observed oil stains on the concrete and soils adjacent to a used oil storage container at the Site [30 TEX. ADMIN. CODE § 324.15, TEX. HEALTH & SAFETY CODE § 371.041 and 40 CFR § 279.22(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease discharging and disposing of any additional unauthorized waste.
- b. Within 30 days after the effective date of this Agreed Order:
 - i. Remove all MSW from the Site and dispose of it at an authorized facility; and
 - ii. Label all used oil storage containers with the words "Used Oil".

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RN104470463
Docket No. 2015-0196-MSW-E

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

i. Conduct an investigation to determine whether response actions are necessary under Texas Risk Reduction Program (“TRRP”)(30 TEX. ADMIN. CODE ch. 350) and submit the results to the Executive Director;

ii. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ;

iii. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, submit, by the deadline prescribed by the Executive Director, an Affected Property Assessment Report (“APAR”), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Order Compliance Team and to any additional addresses as directed by the Executive Director; and

iv. If the Executive Director determines that the APAR indicates response actions are necessary, comply with all applicable requirements of TRRP.

d. Within 75 days, submit written certification to demonstrate compliance with a. through c.i.

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: Tiffany Maurer, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2696; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: N/A

Respondent: Juan Ortiz, Owner/President, El Valle Foreign & Domestic Parts, 9407 West Expressway 83, Harlingen, Texas 78552

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 26-Jan-2015 | Screening | 2-Feb-2015 | EPA Due | |
| | PCW | 4-Feb-2015 | | | | |

| | | | |
|--|--|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Juan Ortiz dba El Valle Foreign & Domestic Parts | | |
| Reg. Ent. Ref. No. | RN104470463 | | |
| Facility/Site Region | 15-Harlingen | Major/Minor Source | Minor |

| | | | |
|--|-----------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 50035 | No. of Violations | 2 |
| Docket No. | 2015-0196-MSW-E | Order Type | 1660 |
| Media Program(s) | Used Oil | Government/Non-Profit | No |
| Multi-Media | Municipal Solid Waste | Enf. Coordinator | Tiffany Maurer |
| | | EC's Team | Enforcement Team 6 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$5,000 |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$1,000 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | | |
|---------------------------|--------|-----------|--------------------------------|--------|
| Compliance History | -10.0% | Reduction | Subtotals 2, 3, & 7 | -\$100 |
|---------------------------|--------|-----------|--------------------------------|--------|

Notes: Reduction for high performer classification.

| | | | | | |
|--------------------|----|------|-------------|-------------------|-----|
| 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 | \$201 |
| Estimated Cost of Compliance | \$5,015 |

*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|-------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$900 |
|-----------------------------|-----------------------|-------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|-------|
| Final Penalty Amount | \$900 |
|-----------------------------|-------|

| | | |
|-----------------------------------|-------------------------------|-------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$900 |
|-----------------------------------|-------------------------------|-------|

| | | | | |
|-----------------|-------|-----------|-------------------|--------|
| DEFERRAL | 20.0% | Reduction | Adjustment | -\$180 |
|-----------------|-------|-----------|-------------------|--------|

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 | \$720 |
|------------------------|-------|

Screening Date 2-Feb-2015

Docket No. 2015-0196-MSW-E

PCW

Respondent Juan Ortiz dba El Valle Foreign & Domestic Parts

Policy Revision 4 (April 2014)

Case ID No. 50035

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104470463

Media [Statute] Used Oil

Enf. Coordinator Tiffany Maurer

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

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes

Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% -10%

Screening Date 2-Feb-2015 **Docket No.** 2015-0196-MSW-E **PCW**
Respondent Juan Ortiz dba El Valle Foreign & Domestic Parts *Policy Revision 4 (April 2014)*
Case ID No. 50035 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN104470463
Media [Statute] Used Oil
Enf. Coordinator Tiffany Maurer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 324.1 and 40 Code of Federal Regulations ("CFR") § 279.22(c)(1)

Violation Description Failed to label or clearly mark used oil storage containers with the words "Used Oil". Specifically, three used oil storage containers were not labeled.

Base Penalty \$5,000

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

| 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 \$4,750

\$250

Violation Events

Number of Violation Events 3 Number of violation days 81

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | X |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$750

Three monthly events are recommended from the November 13, 2014 investigation date to the February 2, 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 \$750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$1 **Violation Final Penalty Total** \$675

This violation Final Assessed Penalty (adjusted for limits) \$675

Economic Benefit Worksheet

Respondent Juan Ortiz dba El Valle Foreign & Domestic Parts
Case ID No. 50035
Reg. Ent. Reference No. RN104470463
Media Used Oil
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 | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$15 | 13-Nov-2014 | 2-Sep-2015 | 0.80 | \$1 | n/a | \$1 |

Notes for DELAYED costs

Estimated cost to label three used oil containers (\$5.00 per container). The date required is the investigation date, and the final date is the expected 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

\$15

TOTAL

\$1

Screening Date 2-Feb-2015

Docket No. 2015-0196-MSW-E

PCW

Respondent Juan Ortiz dba El Valle Foreign & Domestic Parts

Policy Revision 4 (April 2014)

Case ID No. 50035

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104470463

Media [Statute] Used Oil

Enf. Coordinator Tiffany Maurer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 324.15, Tex. Health & Safety Code § 371.041 and 40 CFR § 279.22(d)

Violation Description

Failed to perform response action upon detection of a release of used oil. Specifically, the investigator observed oil stains on the concrete and soils adjacent to a used oil storage container at the Site.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | X |
| Potential | | | |

Percent 5.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

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

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

81 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | X |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$250

One quarterly event is recommended from the November 13, 2014 investigation to the February 2, 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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$201

Violation Final Penalty Total \$225

This violation Final Assessed Penalty (adjusted for limits) \$225

Economic Benefit Worksheet

Respondent Juan Ortiz dba El Valle Foreign & Domestic Parts
Case ID No. 50035
Reg. Ent. Reference No. RN104470463
Media Used Oil
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

| 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 | \$5,000 | 13-Nov-2014 | 2-Sep-2015 | 0.80 | \$201 | n/a | \$201 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to submit a report demonstrating the applicability of the Texas Risk Reduction Program ("TRRP") to the Executive Director for approval, and to comply with all applicable requirements of TRRP. The date required is the investigation date, and the final date is the estimated compliance date.

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

\$5,000

TOTAL

\$201



Penalty Calculation Worksheet (PCW)

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 26-Jan-2015 | Screening | 2-Feb-2015 | EPA Due | |
| | PCW | 4-Feb-2015 | | | | |

| | |
|--|--|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Juan Ortiz dba El Valle Foreign & Domestic Parts |
| Reg. Ent. Ref. No. | RN104470463 |
| Facility/Site Region | 15-Harlingen |
| Major/Minor Source | Major |

| | | | |
|--|-----------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 50035 | No. of Violations | 1 |
| Docket No. | 2015-0196-MSW-E | Order Type | 1660 |
| Media Program(s) | Municipal Solid Waste | Government/Non-Profit | No |
| Multi-Media | Used Oil | Enf. Coordinator | Tiffany Maurer |
| | | 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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Reduction **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

| | |
|------------------------------|----------|
| Total EB Amounts | \$655 |
| Estimated Cost of Compliance | \$16,325 |

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 2-Feb-2015

Docket No. 2015-0196-MSW-E

PCW

Respondent Juan Ortiz dba El Valle Foreign & Domestic Parts

Policy Revision 4 (April 2014)

Case ID No. 50035

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104470463

Media [Statute] Municipal Solid Waste

Enf. Coordinator Tiffany Maurer

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)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 2-Feb-2015

Docket No. 2015-0196-MSW-E

PCW

Respondent Juan Ortiz dba El Valle Foreign & Domestic Parts

Policy Revision 4 (April 2014)

Case ID No. 50035

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104470463

Media [Statute] Municipal Solid Waste

Enf. Coordinator Tiffany Maurer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)

Violation Description The Respondent caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 3,187 scrap tires and approximately 43 cubic yards of MSW consisting of plastic, household waste, mattresses, box springs, sheetrock, wood, pallets and foam were disposed of at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor). Actual Moderate is marked with an X.

Percent 30.0%

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor. All cells are empty.

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 environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

81 Number of violation days

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event. Quarterly is marked with an X.

Violation Base Penalty \$7,500

One quarterly event is recommended from the November 13, 2014 investigation to the February 2, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with rows: Extraordinary, Ordinary, N/A. N/A is marked with an X. Columns: Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

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 \$655

Violation Final Penalty Total \$6,750

This violation Final Assessed Penalty (adjusted for limits) \$6,750

Economic Benefit Worksheet

Respondent Juan Ortiz dba El Valle Foreign & Domestic Parts
Case ID No. 50035
Reg. Ent. Reference No. RN104470463
Media Violation No. Municipal Solid Waste
 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 | \$16,325 | 13-Nov-2014 | 2-Sep-2015 | 0.80 | \$655 | n/a | \$655 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to remove (\$390 for 43 cubic yards of MSW and \$15,935 for 3,187 tires at \$5.00 per tire) all MSW from the Site and dispose of it 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

\$16,325

TOTAL

\$655

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 CN602751190, RN104470463, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN602751190, Juan Ortiz **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN104470463, EL VALLE FOREIGN & DOMESTIC PARTS **Classification:** HIGH **Rating:** 0.00

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 9407 WEST EXPRESSWAY 83, HARLINGEN, TEXAS, CAMERON COUNTY

TCEQ Region: REGION 15 - HARLINGEN

ID Number(s): STORMWATER PERMIT TXR05M175

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER R15104470463

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER 455150258

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

Date Compliance History Report Prepared: February 02, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 02, 2010 to February 02, 2015

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

Name: Tiffany Maurer

Phone: (512) 239-2696

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 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.):

Item 1 November 16, 2010 (870449)

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

II ("Allegations"). The Respondent has paid One Hundred Seventy Dollars (\$170) of the administrative penalty and One Thousand Five Hundred Thirty Dollars (\$1,530) 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 Five Thousand Nine Hundred Fifty Dollars (\$5,950) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Seventy Dollars (\$170) 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 owner and operator of the Site, the Respondent is alleged to have:

1. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on November 13, 2014. Specifically, approximately 3,187 scrap tires and approximately

43 cubic yards of MSW consisting of plastic, household waste, mattresses, box springs, sheetrock, wood, pallets and foam were disposed of at the Site.

2. Failed to label or clearly mark used oil storage containers with the words "Used Oil", in violation of 30 TEX. ADMIN. CODE § 324.1 and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 279.22(c)(1), as documented during an investigation conducted on November 13, 2014. Specifically, three used oil storage containers were not labeled.
3. Failed to perform response action upon detection of a release of used oil, in violation of 30 TEX. ADMIN. CODE § 324.15, TEX. HEALTH & SAFETY CODE § 371.041 and 40 CFR § 279.22(d), as documented during an investigation conducted on November 13, 2014. Specifically, the investigator observed oil stains on the concrete and soils adjacent to a used oil storage container at the Site.

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: Juan Ortiz dba El Valle Foreign & Domestic Parts, Docket No. 2015-0196-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. Immediately upon the effective date of this Agreed Order, cease discharging and disposing of any additional unauthorized waste.
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Remove all MSW from the Site and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 330.15; and
 - ii. Label all used oil storage containers with the words "Used Oil", in accordance with 30 TEX. ADMIN. CODE § 324.1 and 40 CFR § 279.22(c).

- c. Within 30 days after the effective date of this Agreed Order:
- i. Conduct an investigation to determine whether response actions are necessary under Texas Risk Reduction Program ("TRRP") (30 TEX. ADMIN. CODE ch. 350) and submit the results to the Executive Director in accordance with Order Provision No. 2.d, below;
 - ii. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ;
 - iii. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, submit, by the deadline prescribed by the Executive Director, an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Order Compliance Team at the address listed below in Ordering Provision No. 2.d and to any additional addresses as directed by the Executive Director; and
 - iv. If the Executive Director determines that the APAR indicates response actions are necessary, comply with all applicable requirements of TRRP.
- d. Within 75 days after the effective date of this Agreed Order, submit written certification and investigation results 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.i. 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
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

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 Site 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

Date



9/2/16

For the Executive Director

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

Date

JUAN ORTIZ

7-26-16

Name (Printed or typed)

Title

Authorized Representative of

Juan Ortiz dba El Valle Foreign & Domestic Parts

President

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.