

**Executive Summary – Enforcement Matter – Case No. 47954**

**City of Del Rio**

**RN102143294**

**Docket No. 2013-2103-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM - MSW, WQ

**Small Business:**

No

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

City of Del Rio Landfill, 1897 Railway Road, Del Rio, Val Verde County

**Type of Operation:**

Type I Municipal Solid Waste ("MSW") landfill

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 11, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$14,850

**Amount Deferred for Expedited Settlement:** \$2,970

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

**Total Paid to General Revenue:** \$11,880

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** September 10, 2013

**Date(s) of NOE(s):** October 16, 2013

**Executive Summary – Enforcement Matter – Case No. 47954**  
**City of Del Rio**  
**RN102143294**  
**Docket No. 2013-2103-MLM-E**

***Violation Information***

1. Failed to maintain authorization to discharge storm water associated with industrial activities under the Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000. Specifically, TPDES MSGP No. TXR05V369 expired on November 14, 2011 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].
2. Failed to display current inspection tags on all fire extinguishers. Specifically, there were two fire extinguishers in the used oil collection area with outdated inspection tags [30 TEX. ADMIN. CODE § 330.129 and MSW Disposal Permit No. 207A, Site Operating Plan Section 9.1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. Submitted documentation demonstrating that the inspection tags were updated on the two fire extinguishers at the used oil collection area and replaced on October 28, 2013; and
- b. Obtained coverage under TPDES MSGP No. TXR05BY31 on November 15, 2013.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Keith Frank, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-1203; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Robert Garza, Mayor, City of Del Rio, 109 West Broadway Street, Del Rio, Texas 78840-5502

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	21-Oct-2013	<b>Screening</b>	25-Oct-2013	<b>EPA Due</b>	
	<b>PCW</b>	11-Jul-2014				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Del Rio
<b>Reg. Ent. Ref. No.</b>	RN102143294
<b>Facility/Site Region</b>	16-Laredo
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	47954	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-2103-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Keith Frank
		<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>	\$3,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	20.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$700
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Notes: Enhancement for one order with denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$350
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$0  
 Approx. Cost of Compliance: \$50  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,850
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$3,850
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,850
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$770
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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>	\$3,080
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Screening Date 25-Oct-2013

Docket No. 2013-2103-MLM-E

PCW

Respondent City of Del Rio

Policy Revision 3 (September 2011)

Case ID No. 47954

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102143294

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

### 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> )	1	20%
	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 judgements 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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 20%

Screening Date 25-Oct-2013

Docket No. 2013-2103-MLM-E

PCW

Respondent City of Del Rio

Policy Revision 3 (September 2011)

Case ID No. 47954

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102143294

Media [Statute] Municipal Solid Waste

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.129 and Municipal Solid Waste Disposal Permit No. 207A, Site Operating Plan Section 9.1

Violation Description Failed to display current inspection tags on all fire extinguishers. Specifically, there were two fire extinguishers in the used oil collection area with outdated inspection tags.

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 7.0%

Matrix Notes

33% of the rule requirement was not met.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 2

45 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$3,500

Two single events are recommended (one for each fire extinguisher).

Good Faith Efforts to Comply

10.0% Reduction

\$350

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

Notes The Respondent came into compliance on October 28, 2013, after the Notice of Enforcement dated October 16, 2013.

Violation Subtotal \$3,150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,850

This violation Final Assessed Penalty (adjusted for limits) \$3,850

## Economic Benefit Worksheet

**Respondent** City of Del Rio  
**Case ID No.** 47954  
**Reg. Ent. Reference No.** RN102143294  
**Media** Municipal Solid Waste  
**Violation No.** 1

<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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$50	10-Sep-2013	28-Oct-2013	0.13	\$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**

Estimated cost to update and replace the inspection tags on two fire extinguishers. Date Required is the investigation date. Final Date is the 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**

<b>Approx. Cost of Compliance</b>	\$50	<b>TOTAL</b>	\$0
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# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	21-Oct-2013	<b>Screening</b>	25-Oct-2013	<b>EPA Due</b>	
	<b>PCW</b>	11-Jul-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Del Rio				
<b>Reg. Ent. Ref. No.</b>	RN102143294				
<b>Facility/Site Region</b>	16-Laredo	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	47954	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-2103-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>	Municipal Solid Waste	<b>Enf. Coordinator</b>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 6
<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**

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

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

**Compliance History**  Enhancement **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   
 Approx. Cost of Compliance  \*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 25-Oct-2013

Docket No. 2013-2103-MLM-E

PCW

Respondent City of Del Rio

Policy Revision 3 (September 2011)

Case ID No. 47954

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102143294

Media [Statute] Water Quality

Enf. Coordinator Keith Frank

### 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> )	1	20%
	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 judgements 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)** 20%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one order with denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 20%

**Screening Date** 25-Oct-2013  
**Respondent** City of Del Rio  
**Case ID No.** 47954  
**Reg. Ent. Reference No.** RN102143294  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Keith Frank

**Docket No.** 2013-2103-MLM-E

**PCW**

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

**Violation Description** Failed to maintain authorization to discharge storm water associated with industrial activities under the Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR050000. Specifically, TPDES MSGP No. TXR05V369 expired on November 14, 2011.

**Base Penalty** \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0.0%

**>> Programmatic Matrix**

Falsification	Harm		
	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 8

711 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$10,000

Eight quarterly events are recommended based on documentation of the violation from the November 14, 2011 expiration date to the October 25, 2013 screening date.

**Good Faith Efforts to Comply**

10.0% Reduction

\$1,000

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

Notes: The Respondent came into compliance on November 15, 2013, after the Notice of Enforcement dated October 16, 2013.

**Violation Subtotal** \$9,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$501

**Violation Final Penalty Total** \$11,000

**This violation Final Assessed Penalty (adjusted for limits)** \$11,000

# Economic Benefit Worksheet

**Respondent** City of Del Rio  
**Case ID No.** 47954  
**Reg. Ent. Reference No.** RN102143294  
**Media** Water Quality  
**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	\$5,000	14-Nov-2011	15-Nov-2013	2.01	\$501	n/a	\$501
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a TPDES MSGP. Date Required is the expiration date of TPDES MSGP No. TXR05V369. Final Date is the 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

\$5,000

**TOTAL**

\$501

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To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PENDING** Compliance History Report for CN600756290, RN102143294, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600756290, City of Del Rio      **Classification:** SATISFACTORY      **Rating:** 8.61

**Regulated Entity:** RN102143294, City of Del Rio Landfill      **Classification:** SATISFACTORY      **Rating:** 25.00

**Complexity Points:** 4      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 1897 RAILWAY ROAD, DEL RIO, TX 78840, VAL VERDE COUNTY

**TCEQ Region:** REGION 16 - LAREDO

**ID Number(s):**  
**MUNICIPAL SOLID WASTE DISPOSAL PERMIT 207A**      **USED OIL REGISTRATION C87325**  
**STORMWATER PERMIT TXR05BY31**

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

**Date Compliance History Report Prepared:** November 15, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 25, 2008 to October 25, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Keith Frank      **Phone:** (512) 239-1203

## 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:**

- 1 **Effective Date: 04/27/2013**      ADMINORDER 2012-1914-MSW-E (1660 Order-Agreed Order With Denial)
  - Classification: Moderate
  - Citation: 30 TAC Chapter 330, SubChapter D 330.165(g)
  - Rqmt Prov:Permit No. 207A PERMIT
  - Description: Failure to repair eroded areas of the intermediate cover within five days of detection.
  - Classification: Major
  - Citation: 30 TAC Chapter 30, SubChapter F 30.201(b)
  - Rqmt Prov:Permit No. 207A PERMIT
  - Description: Failure to have at least one individual licensed to supervise or manage a MSW facility.

### **B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	August 24, 2009	(765116)
Item 2	August 13, 2010	(843995)
Item 3	October 28, 2011	(963980)

**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  
CITY OF DEL RIO  
RN102143294**

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

**AGREED ORDER  
DOCKET NO. 2013-2103-MLM-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 the City of Del Rio ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a Type I Municipal Solid Waste ("MSW") landfill at 1897 Railway Road in Del Rio, Val Verde County, Texas (the "Facility").
2. The Facility involves or involved the management of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
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 21, 2013.
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 Fourteen Thousand Eight Hundred Fifty Dollars (\$14,850) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Eleven Thousand Eight Hundred Eighty Dollars (\$11,880) of the administrative penalty and Two Thousand Nine Hundred Seventy Dollars (\$2,970) 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, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. Submitted documentation demonstrating that the inspection tags were updated on the two fire extinguishers at the used oil collection area and replaced on October 28, 2013; and
  - b. Obtained coverage under Texas Pollution Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05BY31 on November 15, 2013.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to maintain authorization to discharge storm water associated with industrial activities under the TPDES MSGP No. TXR050000, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on September 10, 2013. Specifically, TPDES MSGP No. TXR05V369 expired on November 14, 2011.

2. Failed to display current inspection tags on all fire extinguishers, in violation of 30 TEX. ADMIN. CODE § 330.129 and MSW Disposal Permit No. 207A, Site Operating Plan Section 9.1. Specifically, there were two fire extinguishers in the used oil collection area with outdated inspection tags.

### 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: City of Del Rio, Docket No. 2013-2103-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. 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.
3. 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.
4. 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.

5. The effective date of this Order is the date it is signed by the Commission or the Executive Director. 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

  
\_\_\_\_\_  
For the Executive Director

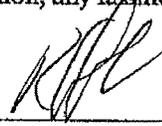
10/3/16  
\_\_\_\_\_  
Date

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.

  
\_\_\_\_\_  
Signature

5-12-16  
\_\_\_\_\_  
Date

Robert Garza  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Del Rio

\_\_\_\_\_  
Mayor  
\_\_\_\_\_  
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.