

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 59195  
TFW Industrial Supply & CNC Machine, LLC  
RN110835048  
Docket No. 2020-0527-IHW-E

Page 1 of 2

**Order Type:**

Default Order

**Media:**

IHW

**Small Business:**

Yes

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

8145 Cotton Trail, Godley, Johnson County

**Type of Operation:**

turning, milling, and sawing facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: None

**Texas Register Publication Date:** June 11, 2021

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$11,812

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

**Total Due to General Revenue:** \$11,812

**Compliance History Classifications:**

Person/CN – Unclassified

Site/RN – Unclassified

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 59195**  
**TFW Industrial Supply & CNC Machine, LLC**  
**RN110835048**  
**Docket No. 2020-0527-IHW-E**

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**Investigation Information**

**Complaint Date(s):** August 12, 2019  
Complainant alleges the facility dumped and buried oil-based waste on the southwest corner of the facility's property.

**Date(s) of Investigation:** August 15, 2019; March 27, 2020

**Date(s) of NOV(s):** October 10, 2019

**Date(s) of NOE(s):** March 27, 2020

**Violation Information**

1. Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW") [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 335.4(1)].
2. Failed to conduct hazardous waste determinations and waste classifications [30 TEX. ADMIN. CODE §§ 335.62, 335.503(a), and 335.504, and 40 C.F.R. § 262.11].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**  
None

**Technical Requirements:**

1. Within 30 days:
  - a. Develop and implement procedures to prevent any future discharge of unauthorized ISW from operations at the Facility;
  - b. Properly remove contaminated soil and dispose of it at an authorized facility using appropriate corrective measures; and
  - c. Conduct waste determinations and waste classifications for the cutting fluid and hydraulic fluid generated at the Facility.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a through 1.c.

**Litigation Information**

**Date Petition(s) Filed:** December 3, 2020; January 25, 2021

**Date Green Card(s) Signed:** USPS.com "Track & Delivery" confirmation records unable to confirm delivery; unclaimed

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

**Contact Information**

**TCEQ Attorneys:** Taylor Pearson, Litigation, (512) 239-3400  
Garrett Arthur, Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Interim Agenda Coordinator:** Elisa Guerra, (512) 239-3329

**TCEQ Enforcement Coordinator:** Berenice Munoz, Enforcement, (915) 834-4976

**TCEQ Regional Contact:** Erin Gorman, Dallas/Fort Worth Regional Office, (817) 588-5853

**Respondent Contact:** Troy Gilley, Director, TFW Industrial Supply & CNC Machine, LLC, P.O. Box 118, Godley, Texas 76044-0118

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	30-Mar-2020		
	<b>PCW</b>	2-Sep-2020	<b>Screening</b>	6-Apr-2020
			<b>EPA Due</b>	

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	TFW Industrial Supply & CNC Machine, LLC		
<b>Reg. Ent. Ref. No.</b>	RN110835048		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	59195	<b>No. of Violations</b>	2
<b>Docket No.</b>	2020-0527-IHW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Industrial and Hazardous Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Berenice Munoz
		<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>	\$11,250
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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>	<b>5.0%</b>	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$562
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<b>Notes</b>	Enhancement for one NOV with same/similar violations.			
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<b>Culpability</b>	No	<b>0.0%</b>	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.			
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	<b>0.0%</b>	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,403	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$19,397	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$11,812
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$11,812
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<b>DEFERRAL</b>	<b>0.0%</b>	<b>Reduction</b>	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral not offered for non-expedited settlement.		
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<b>PAYABLE PENALTY</b>	\$11,812
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<b>Screening Date</b>	6-Apr-2020	<b>Docket No.</b>	2020-0527-IHW-E	<b>PCW</b>
<b>Respondent</b>	TFW Industrial Supply & CNC Machine, LLC			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	59195			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN110835048			
<b>Media</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Berenice Munoz			

## Compliance History Worksheet

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

Component	Number of...	Number	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> )	1	5%
	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%
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)** 5%

### >> 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**

Enhancement for one NOV with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 5%

Screening Date 6-Apr-2020

Docket No. 2020-0527-IHW-E

PCW

Respondent TFW Industrial Supply &amp; CNC Machine, LLC

Policy Revision 4 (April 2014)

Case ID No. 59195

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110835048

Media Industrial and Hazardous Waste

Enf. Coordinator Berenice Munoz

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 335.4(1) and Tex. Water Code § 26.121(a)(1)

Violation Description

Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW"). Specifically, approximately 1,230 square feet of ISW consisting of stained soil saturated with cutting fluid waste and dead vegetation were observed extending onto the soil at the southern portion of the Facility.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants that do not 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 1

10 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the March 27, 2020 record review date to the April 6, 2020 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	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$795

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

## Economic Benefit Worksheet

**Respondent** TFW Industrial Supply & CNC Machine, LLC  
**Case ID No.** 59195  
**Reg. Ent. Reference No.** RN110835048  
**Media** Industrial and Hazardous Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### 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	\$100	15-Aug-2019	24-Jan-2021	1.45	\$7	n/a	\$7
Remediation/Disposal	\$897	15-Aug-2019	24-Jan-2021	1.45	\$65	n/a	\$65
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	15-Aug-2019	24-Jan-2021	1.45	\$723	n/a	\$723

#### Notes for DELAYED costs

Estimated delayed cost to develop and implement procedures to prevent any future discharge of unauthorized ISW from operations at the Facility (\$100), to properly remove contaminated soil and dispose of it at an authorized facility using appropriate corrective measures (\$897), and to submit a report demonstrating the applicability of Texas Risk Reduction Program ("TRRP") to the Executive Director and comply with all applicable requirements of TRRP (\$10,000). The Dates Required are the initial investigation date and the Final Dates are the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,997

**TOTAL**

\$795

<b>Screening Date</b>	6-Apr-2020	<b>Docket No.</b>	2020-0527-IHW-E	<b>PCW</b>
<b>Respondent</b>	TFW Industrial Supply & CNC Machine, LLC			
<b>Case ID No.</b>	59195	<i>Policy Revision 4 (April 2014)</i>		
<b>Reg. Ent. Reference No.</b>	RN110835048	<i>PCW Revision March 26, 2014</i>		
<b>Media</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Berenice Munoz			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 335.62, 335.503(a), and 335.504, and 40 Code of Federal Regulations § 262.11			
<b>Violation Description</b>	Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not conducted for the cutting fluids and hydraulic fluid generated at the Facility.			
<b>Base Penalty</b>				\$25,000

  

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

<b>OR</b>		<b>Release</b>	<b>Harm</b>		
		Major	Moderate	Minor	
	Actual				
	Potential	X			<b>Percent</b> 15.0%

  

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 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.
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<b>Adjustment</b>	\$21,250
\$3,750	

  

**Violation Events**

Number of Violation Events	2	10	Number of violation days
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	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	<b>Violation Base Penalty</b> \$7,500

  

Two single events are recommended (one event for each waste stream).

  

**Good Faith Efforts to Comply**

<b>0.0%</b>	<b>Reduction</b>
Before NOE/NOV    NOE/NOV to EDPRP/Settlement Offer	
Extraordinary	
Ordinary	
N/A	X
Notes	The Respondent does not meet the good faith criteria for this violation.

  

<b>Violation Subtotal</b>	\$7,500
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**Economic Benefit (EB) for this violation**

<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$608
<b>Violation Final Penalty Total</b>	\$7,875
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
	\$7,875

## Economic Benefit Worksheet

**Respondent** TFW Industrial Supply & CNC Machine, LLC  
**Case ID No.** 59195  
**Reg. Ent. Reference No.** RN110835048  
**Media** Industrial and Hazardous Waste  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### 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)	\$8,400	15-Aug-2019	24-Jan-2021	1.45	\$608	n/a	\$608

#### Notes for DELAYED costs

Estimated delayed cost to conduct waste determinations and waste classifications for the cutting fluids and hydraulic fluid generated at the Facility (\$4,200 per waste stream). The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$8,400

**TOTAL**

\$608



The TCEQ is committed to accessibility.

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



# Compliance History Report

Compliance History Report for CN605689850, RN110835048, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

<b>Customer, Respondent, or Owner/Operator:</b>	CN605689850, TFW Industrial Supply & CNC Machine, LLC	<b>Classification:</b> UNCLASSIFIED	<b>Rating:</b> -----
<b>Regulated Entity:</b>	RN110835048, 8145 Cotton Trail Godley TX 76044	<b>Classification:</b> UNCLASSIFIED	<b>Rating:</b> -----
<b>Complexity Points:</b>	4	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	8145 Cotton Trail, Godley, Johnson County, Texas 76044-3597		
<b>TCEQ Region:</b>	REGION 04 - DFW METROPLEX		
<b>ID Number(s):</b>			
<b>INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED</b> ID NUMBER R04110835048			
<b>Compliance History Period:</b>	September 01, 2014 to August 31, 2019	<b>Rating Year:</b> 2019	<b>Rating Date:</b> 09/01/2019
<b>Date Compliance History Report Prepared:</b>	April 02, 2020		
<b>Agency Decision Requiring Compliance History:</b>	Enforcement		
<b>Component Period Selected:</b>	April 02, 2015 to April 02, 2020		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Berenice Munoz	<b>Phone:</b>	(915) 834-4976

## 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 |

## 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.

- |   |              |   |                          |
|---|--------------|---|--------------------------|
| 1 | Date:        | 10/10/2019 (1590145)  |                          |
|   | Self Report? | NO  | Classification: Moderate |
|   | Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 335, SubChapter A 335.4   |                          |
|   | Description: | Failure to prevent an unauthorized discharge of industrial solid waste.   |                          |
|   | Self Report? | NO  | Classification: Moderate |
|   | Citation:    | 30 TAC Chapter 335, SubChapter C 335.62<br>30 TAC Chapter 335, SubChapter R 335.503<br>30 TAC Chapter 335, SubChapter R 335.504 |                          |

Description: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11  
Failure to conduct hazardous waste determinations and waste classifications for wastes currently generated on-site.

**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  
TFW INDUSTRIAL SUPPLY &  
CNC MACHINE, LLC;  
RN110835048**

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

## **DEFAULT ORDER**

**DOCKET NO. 2020-0527-IHW-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is TFW Industrial Supply & CNC Machine, LLC ("Respondent"). The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Respondent owns and operates a turning, milling, and sawing facility located at 8145 Cotton Trail in Godley, Johnson County, Texas (the "Facility"). The Facility involves or involved the management of industrial and hazardous waste ("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. During an investigation conducted on August 15, 2019, and a record review conducted on March 27, 2020, an investigator documented that Respondent:
  - a. Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW"). Specifically, approximately 1,230 square feet of ISW consisting of stained soil saturated with cutting fluid waste and dead vegetation were observed extending onto the soil at the southern portion of the Facility; and
  - b. Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not conducted for the cutting fluids and hydraulic fluid generated at the Facility.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of TFW Industrial Supply & CNC Machine, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on December 3, 2020.

4. The EDPRP was mailed to Respondent's last known address on December 3, 2020, via certified mail, return receipt requested, postage prepaid. USPS.com "Track & Confirm" delivery confirmation records are not able to confirm delivery.
5. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on January 25, 2021.
6. By letter dated January 25, 2021, sent to Respondent's last known addresses via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent caused, suffered, allowed, or permitted the unauthorized disposal of ISW, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 335.4(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to conduct hazardous waste determinations and waste classifications, in violation of 30 TEX. ADMIN. CODE §§ 335.62, 335.503(a), and 335.504, and 40 C.F.R. § 262.11.
4. As evidenced by Findings of Fact Nos. 3 through 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of eleven thousand eight hundred twelve dollars (\$11,812.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of eleven thousand eight hundred twelve dollars (\$11,812.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: TFW Industrial Supply & CNC Machine, LLC; Docket No. 2020-0527-IHW-E" to:

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

3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Develop and implement procedures to prevent any future discharge of unauthorized ISW from operations at the Facility;
    - ii. Properly remove contaminated soil and dispose of it at an authorized facility using appropriate corrective measures; and
    - iii. Conduct waste determinations and waste classifications for the cutting fluid and hydraulic fluid generated at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504; and
  - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall 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 fine and imprisonment for knowing violations.”

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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For the Commission

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Date



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF TAYLOR PEARSON

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of TFW Industrial Supply & CNC Machine, LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 3, 2020.

The EDPRP was mailed to Respondent's last known address on December 3, 2020, via certified mail, return receipt requested, postage prepaid. USPS.com "Track & Confirm" delivery confirmation records are not able to confirm delivery.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on January 25, 2021.

The EDPRP was mailed to Respondent's last known address on January 25, 2021, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is Taylor Wayne Pearson, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Williamson County,

State of Texas,

on the 21st day of May 2021

A handwritten signature in blue ink that reads "Taylor Pearson".

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Declarant