

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 56872
Clean Harbors Deer Park, LLC
RN102184173
Docket No. 2018-1539-IHW-E

Order Type:
Agreed Order

Media:
IHW

Small Business:
N/A

Location(s) Where Violation(s) Occurred:
2027 Independence Parkway South, La Porte, Harris County

Type of Operation:
industrial and hazardous waste management facility

Other Significant Matters:

Additional Pending Enforcement Actions:	Yes, 2021-1517-IWD-E; 2022-0731-AIR-E
Past-Due Penalties:	None
Past-Due Fees:	\$2,500
Other:	None
Interested Third Parties:	None

Texas Register Publication Date: January 12, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$108,619

Total Paid to General Revenue: \$108,619

Total Due to General Revenue: \$0

Compliance History Classifications:

Person/CN - Satisfactory
Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: February 21, 2017

Date(s) of NOV(s): N/A

Date(s) of NOE(s): September 25, 2018

Clean Harbors Deer Park, LLC

RN102184173

Docket No. 2018-1539-IHW-E

Violation Information

1. Failed to obtain authorization prior to managing hazardous waste (“HW”) [30 TEX. ADMIN. CODE § 305.125(1) and Solid Waste Registration (“SWR”) Permit No. 50089, Provision II.A.6 - Standard Permit Conditions].
2. Failed to provide financial assurance for all HW storage tanks at least 60 days prior to the initial acceptance of wastes [30 TEX. ADMIN. CODE § 37.31(a) and SWR Permit No. 50089, Provision VII.B.1.a Submission of Documents].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

1. Obtained authorization to manage HW in Tank Nos. T-80, T-81, T-82, and T-83 on March 24, 2017.
2. Obtained a financial assurance policy for liability coverage for all HW storage areas and equipment, eliminating all financial assurance deficiencies at the Facility, on July 14, 2018.

Technical Requirements:

None

Litigation Information**Settlement Date:**

November 7, 2023

Contact Information

TCEQ Attorneys: Casey Kurnath, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Eresha Desilva, Enforcement Division, (512) 239-5084

TCEQ Regional Contact: Karina Rocha, Houston Regional Office, (713) 767-3500

Respondent Contact: Rebecca Underwood, President, Clean Harbors Deer Park, LLC, 42 Longwater Drive, Norwell, Massachusetts 02061-1612

Respondent's Attorney: Timmery Fitzpatrick, P.O. Box 9149, 42 Longwater Drive, Norwell, Massachusetts 02061-1612



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	22-Oct-2018	Screening	23-Oct-2018	EPA Due	20-Oct-2017
	PCW	8-Sep-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	Clean Harbors Deer Park, LLC
Reg. Ent. Ref. No.	RN102184173
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	56872	No. of Violations	2
Docket No.	2018-1539-IHW-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ken Moller
		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	\$26,250
---	-------------------	-----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	28.0% Adjustment	Subtotals 2, 3, & 7	\$7,350
---------------------------	-------------------------	--------------------------------	----------------

Notes	Enhancement for four NOVs with dissimilar violations and one Agreed Order containing a denial of liability.
--------------	---

Culpability	Yes	25.0% Enhancement	Subtotal 4	\$6,562
--------------------	-----	--------------------------	-------------------	----------------

Notes	Respondent had prior knowledge of rules and permit provisions concerning the hazardous waste ("HW") permit modification process for adding new waste management units ("WMUs"), and also to increase financial assurance coverage before new WMUs began managing HW onsite.
--------------	---

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$6,562
--	-------------------	-----------------

Economic Benefit	50.0% Enhancement*	Subtotal 6	\$13,125
-------------------------	---------------------------	-------------------	-----------------

Total EB Amounts	\$75,053	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$78,811	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$46,725
-----------------------------	-----------------------	-----------------

OTHER FACTORS AS JUSTICE MAY REQUIRE	132.5% Adjustment	\$61,894
---	--------------------------	-----------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 2 (\$75,019), and a reduction to offset the Economic Benefit Enhancement in Subtotal 6 (-\$13,125).
--------------	---

Final Penalty Amount	\$108,619
-----------------------------	------------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$108,619
-----------------------------------	-------------------------------	------------------

DEFERRAL	0.0% Reduction Adjustment	\$0
-----------------	----------------------------------	------------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	No deferral due to culpability.
--------------	---------------------------------

PAYABLE PENALTY	\$108,619
------------------------	------------------

Screening Date 23-Oct-2018

Docket No. 2018-1539-IHW-E

PCW

Respondent Clean Harbors Deer Park, LLC

Case ID No. 56872

Policy Revision 4 (April 2014)

Reg. Ent. Reference No. RN102184173

PCW Revision March 26, 2014

Media Industrial and Hazardous Waste

Enf. Coordinator Ken Moller

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>)	0	0%
	Other written NOVs	4	8%
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 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) 28%

>> 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 four NOVs with dissimilar violations and one Agreed Order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 28%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 28%

Screening Date 23-Oct-2018

Docket No. 2018-1539-IHW-E

PCW

Respondent Clean Harbors Deer Park, LLC

Policy Revision 4 (April 2014)

Case ID No. 56872

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102184173

Media Industrial and Hazardous Waste

Enf. Coordinator Ken Moller

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Solid Waste Registration ("SWR") Permit No. 50089, Provision II.A.6 - Standard Permit Conditions

Violation Description Failed to obtain authorization prior to managing HW. Specifically, the Facility began storing HW in Tank Nos. T-80, T-81, T-82, and T-83, prior to obtaining authorization to store the HW in the Tanks.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the February 21, 2017 investigation date to the March 24, 2017 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent achieved compliance on March 24, 2017, prior to the Notice of Enforcement ("NOE") dated September 25, 2018.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$34

Violation Final Penalty Total \$31,034

This violation Final Assessed Penalty (adjusted for limits) \$31,034

Economic Benefit Worksheet

Respondent Clean Harbors Deer Park, LLC
Case ID No. 56872
Reg. Ent. Reference No. RN102184173
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	\$8,050	21-Feb-2017	24-Mar-2017	0.08	\$34	n/a	\$34
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to obtain authorization to manage HW prior to storing it. The date required is the investigation date, and the final date is the 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

\$8,050

TOTAL

\$34

Screening Date 23-Oct-2018
Respondent Clean Harbors Deer Park, LLC
Case ID No. 56872
Reg. Ent. Reference No. RN102184173
Media Industrial and Hazardous Waste
Enf. Coordinator Ken Moller

Docket No. 2018-1539-IHW-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 37.31(a) and SWR Permit No. 50089, Provision VII.B.1.a - Submission of Documents

Violation Description
 Failed to provide financial assurance for all HW storage tanks at least 60 days prior to the initial acceptance of wastes. Specifically, the Facility began storing HW in Tank Nos. T-80, T-81, T-82, and T-83, as well as in the East Landfill, without providing financial assurance for liability coverage at least 60 days prior to storing the waste.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	
<p>100% of the rule requirement was not met.</p>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Five single events are recommended (one single event each for T-80, T-81, T-82, and T-83, and one single event for the East Landfill).

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>

Notes The Respondent achieved compliance on July 14, 2018, prior to the NOE dated September 25, 2018.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Clean Harbors Deer Park, LLC
Case ID No. 56872
Reg. Ent. Reference No. RN102184173
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance- landfill	\$45,812	21-Feb-2017	14-Jul-2018	1.39	\$3,837	\$63,760	\$67,597
Financial Assurance-tanks	\$5,030	21-Feb-2017	14-Jul-2018	1.39	\$421	\$7,001	\$7,422
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of the annual premium payments to provide financial assurance for liability coverage for Tank Nos. T-80, T-81, T-82, and T-83 (\$229,060) and for the East Landfill (\$25,150). The dates required are the investigation date and the final dates are the date of compliance.

Approx. Cost of Compliance

\$70,761

TOTAL

\$75,019



Compliance History Report

Compliance History Report for CN601558802, RN102184173, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator:	CN601558802, Clean Harbors Deer Park, LLC	Classification: SATISFACTORY	Rating: 1.58
Regulated Entity:	RN102184173, Clean Harbors Deer Park	Classification: SATISFACTORY	Rating: 1.58
Complexity Points:	36	Repeat Violator: NO	
CH Group:	11 - Waste Management (Excluding Landfills)		
Location:	2027 Independence Parkway South, La Porte, Harris County, Texas		
TCEQ Region:	REGION 12 - HOUSTON		

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0633R
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1013094
AIR NEW SOURCE PERMITS PERMIT 1960
AIR NEW SOURCE PERMITS REGISTRATION 42408
AIR NEW SOURCE PERMITS AFS NUM 4820100172
AIR NEW SOURCE PERMITS EPA PERMIT N001
AIR NEW SOURCE PERMITS REGISTRATION 162428
USED OIL EPA ID TXD055141378

AIR OPERATING PERMITS PERMIT 1566
AIR NEW SOURCE PERMITS PERMIT 1953
AIR NEW SOURCE PERMITS PERMIT 5064
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0633R
AIR NEW SOURCE PERMITS REGISTRATION 33485
AIR NEW SOURCE PERMITS REGISTRATION 159786
USED OIL REGISTRATION A85951
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 32778
WASTEWATER PERMIT WQ0001429000

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 50089
WASTEWATER EPA ID TX0005941

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0633R
INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50089
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 50089

POLLUTION PREVENTION PLANNING ID NUMBER P00589
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD055141378

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: October 07, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 07, 2017 to October 07, 2022

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

Name: Ken Moller **Phone:** (512) 239-6111

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

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

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 05/05/2020 ADMINORDER 2019-1170-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 30 TAC Chapter 122, SubChapter B 122.145(2)(C)
 5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failure to submit a semiannual deviation report for the period of October 29, 2017 to April 28, 2018 within 30 days of the certification period.

See addendum for information regarding federal actions.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	October 20, 2017	(1455961)
Item 2	December 19, 2017	(1467821)
Item 3	January 19, 2018	(1474526)
Item 4	February 20, 2018	(1486752)
Item 5	March 20, 2018	(1490429)
Item 6	May 18, 2018	(1500584)
Item 7	June 20, 2018	(1507701)
Item 8	July 20, 2018	(1514018)
Item 9	August 16, 2018	(1520080)
Item 10	September 19, 2018	(1527245)
Item 11	October 20, 2018	(1533603)
Item 12	November 20, 2018	(1541438)
Item 13	December 20, 2018	(1545222)
Item 14	February 20, 2019	(1559639)
Item 16	March 20, 2019	(1559640)
Item 17	March 27, 2019	(1548515)
Item 18	April 19, 2019	(1571819)
Item 19	May 20, 2019	(1583247)
Item 20	June 20, 2019	(1583248)
Item 21	July 19, 2019	(1593132)
Item 22	August 20, 2019	(1599478)
Item 23	September 20, 2019	(1606383)
Item 24	October 18, 2019	(1613229)
Item 25	November 20, 2019	(1619043)
Item 26	January 20, 2020	(1634036)
Item 27	May 05, 2020	(1633679)
Item 28	May 20, 2020	(1660097)
Item 29	June 15, 2020	(1657126)
Item 30	June 19, 2020	(1666602)
Item 31	August 20, 2020	(1680334)
Item 32	August 31, 2020	(1631816)
Item 33	September 18, 2020	(1686903)
Item 34	October 20, 2020	(1693250)
Item 35	November 20, 2020	(1712440)
Item 36	December 10, 2020	(1696649)
Item 37	December 20, 2020	(1712441)
Item 38	January 20, 2021	(1712442)
Item 39	March 19, 2021	(1725496)
Item 40	September 02, 2021	(1724858)
Item 41	December 15, 2021	(1790641)
Item 42	February 16, 2022	(1806309)
Item 43	March 18, 2022	(1813376)
Item 44	April 20, 2022	(1819947)
Item 45	May 20, 2022	(1828786)
Item 46	June 20, 2022	(1835078)

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: 10/31/2021 (1783615)	
	Self Report? YES	Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)	

Compliance History Report for CN601558802, RN102184173, Rating Year 2022 which includes Compliance History (CH) components from October 07, 2017, through October 07, 2022. Ratings are pending Mass Classification.

	Description:	30 TAC Chapter 305, SubChapter F 305.125(1) Failure to meet the limit for one or more permit parameter		
2	Date:	12/31/2021 (1798435)		
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
3	Date:	03/24/2022 (1789514)		
	Self Report?	NO	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(5) TX0005941 PERMIT WQ0001429000 PERMIT		
	Description:	Failure to prevent the unauthorized discharge of wastewater.		
4	Date:	06/30/2022 (1842283)		
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		

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
CLEAN HARBORS DEER PARK, LLC;
RN102184173

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2018-1539-IHW-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Clean Harbors Deer Park, LLC ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Timmery Fitzpatrick together stipulate that:

1. Respondent owns and operates an industrial and hazardous waste management facility located at 2027 Independence Parkway South in La Porte, Harris County, Texas (the "Facility"). The Facility contains and/or involves the management of municipal solid waste ("MSW") and industrial hazardous waste ("IHW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$108,619 is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid \$108,619 of the penalty.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. 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.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.

9. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. Obtained authorization to manage hazardous waste ("HW") in Tank Nos. T-80, T-81, T-82, and T-83 on March 24, 2017; and
 - b. Obtained a financial assurance policy for liability coverage for all HW storage areas and equipment, eliminating all financial assurance deficiencies at the Facility, on July 14, 2018.

II. ALLEGATIONS

1. During an investigation conducted on February 21, 2017, an investigator documented that Respondent:
 - a. Failed to obtain authorization prior to managing HW, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Solid Waste Registration ("SWR") Permit No. 50089, Provision II.A.6 - Standard Permit Conditions. Specifically, the Facility began storing HW in Tank Nos. T-80, T-81, T-82, and T-83, prior to obtaining authorization to store the HW in the tanks; and
 - b. Failed to provide financial assurance for all HW storage tanks at least 60 days prior to the initial acceptance of wastes, in violation of 30 TEX. ADMIN. CODE § 37.31(a) and SWR Permit No. 50089, Provision VII.B.1.a - Submission of Documents. Specifically, the Facility began storing HW in Tank Nos. T-80, T-81, T-82, and T-83, as well as in the East Landfill, without providing financial assurance for liability coverage at least 60 days prior to storing the waste.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by 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.
4. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
5. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.

6. 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

Erin E. Chanallop

For the Executive Director

1/22/24

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Rebecca Underwood

Signature - Rebecca Underwood, President of Facilities
Clean Harbors Deer Park, LLC
42 Longwater Drive
Norwell, Massachusetts 02061-1612

11/7/2023

Date

If mailing address has changed, please check this box and provide the new address below:
