

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 57888
WPL Investments III, L.L.C. dba Pine Ridge Mobile Home Park
RN107125288
Docket No. 2019-0877-MSW-E

Order Type:
Default Order

Media:
MSW

Small Business:
N/A

Location(s) Where Violation(s) Occurred:
at the corner of Keith Road and Callahan Lane, Lumberton, Hardin County (the “Site”)

Type of Operation:
mobile home park

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: October 14, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$2,165

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$2,165

Compliance History Classifications:

Person/CN - Unsatisfactory
Site/RN - Unsatisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date N/A

Dates of Investigation: July 9, 2018; February 13, 2019

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

Date of NOE: March 20, 2019

Violation Information

1. Respondent caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW") [30 TEX. ADMIN. CODE § 330.15(a)].
2. Failed to collect MSW containing putrescibles at least once weekly to prevent the propagation and attraction of vectors and the creation of public health nuisances [30 TEX. ADMIN. CODE § 330.103(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent no longer owns or operates the site as of March 27, 2019.

Technical Requirements:

Respondent no longer owns the site.

Litigation Information

Date Petitions Filed: June 3, 2021; July 15, 2021

Date Green Cards Signed: unclaimed; unclaimed

Date Answer Filed: N/A

Contact Information

TCEQ Attorneys: Misty James, 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: Karolyn Kent, Enforcement Division, (512) 239-4872

TCEQ Regional Contact: Charlie Adams, Beaumont Regional Office, (409) 898-3838

Respondent Contact: Paula Lee, Manager, WPL Investments III, L.L.C., P.O. Box 8525, Lumberton,
Texas 77657

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	25-Mar-2019			
	PCW	9-Mar-2021	Screening	24-Jun-2019	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	WPL Investments III, L.L.C. dba Pine Ridge Mobile Home Park				
Reg. Ent. Ref. No.	RN107125288				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	57888	No. of Violations	1
Docket No.	2019-0877-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Tyler Richardson
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **35.0%** Adjustment **Subtotals 2, 3, & 7** **\$437**

Notes: Enhancement for Unsatisfactory Performer classification and one default order.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$478**
 Estimated Cost of Compliance **\$461**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,687**

OTHER FACTORS AS JUSTICE MAY REQUIRE **28.3%** Adjustment **\$478**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with the violation.

Final Penalty Amount **\$2,165**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$2,165**

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

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$2,165**

Screening Date 24-Jun-2019

Docket No. 2019-0877-MSW-E

PCW

Respondent WPL Investments III, L.L.C. dba Pine Ridge Mobile Home Park

Policy Revision 4 (April 2014)

Case ID No. 57888

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107125288

Media Municipal Solid Waste

Enf. Coordinator Tyler Richardson

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	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	1	25%
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) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for Unsatisfactory Performer classification and one default order.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date 24-Jun-2019

Docket No. 2019-0877-MSW-E

PCW

Respondent WPL Investments III, L.L.C. dba Pine Ridge Mobile Home Park

Policy Revision 4 (April 2014)

Case ID No. 57888

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107125288

Media Municipal Solid Waste

Enf. Coordinator Tyler Richardson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 330.15(a) and 330.103(a)

Violation Description Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 24 cubic yards of MSW, including household trash, were disposed of at the Site outside of the collection bins. Also, Failed to collect MSW containing putrescibles at least once weekly to prevent propagation and attraction of vectors and the creation of public health nuisances. Specifically, waste was not collected at least once weekly.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				X	5.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 42 Number of violation days

daily		Violation Base Penalty \$1,250
weekly		
monthly		
quarterly	X	
semiannual		
annual		
single event		

One quarterly event is recommended from the February 13, 2019 investigation date to the March 27, 2019 change of ownership 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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$478 Violation Final Penalty Total \$2,166

This violation Final Assessed Penalty (adjusted for limits) \$2,166

Economic Benefit Worksheet

Respondent WPL Investments III, L.L.C. dba Pine Ridge Mobile Home Park
Case ID No. 57888
Reg. Ent. Reference No. RN107125288
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs							

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
Other (as needed)	\$361	9-Jul-2018	27-Mar-2019	0.72	\$13	\$361	\$374
Other (as needed)	\$100	9-Jul-2018	27-Mar-2019	0.72	\$4	\$100	\$104
Notes for AVOIDED costs Estimated avoided cost (\$361) to remove all MSW from the Site and dispose of it at an authorized facility. Estimated avoided cost (\$100) to develop and implement procedures to ensure timely collection of MSW. The Dates Required are the initial investigation date and the Final Dates are the change of ownership date.							

Approx. Cost of Compliance	\$461	TOTAL	\$478
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Compliance History Report

Compliance History Report for CN604528463, RN107125288, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN604528463, WPL Investments III, L.L.C. **Classification:** UNSATISFACTORY **Rating:** 158.00

Regulated Entity: RN107125288, Pine Ridge Mobile Home Park **Classification:** UNSATISFACTORY **Rating:** 158.00

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: At the Corner of Keith Road and Callahan Lane in Lumberton, Hardin County, Texas

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

WATER QUALITY NON PERMITTED ID NUMBER
R10107125288

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
10107125288

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: November 18, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 18, 2014 to November 18, 2019

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

Name: Tyler Richardson

Phone: (512) 239-4872

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:

1 Effective Date: 11/10/2015 ADMINORDER 2014-0848-WQ-E (Findings Order-Default)

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure to prevent the discharge of sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)

Description: Failure to notify the TCEQ of an accidental discharge or spill that occurs at or from any activity or facility which causes or may cause pollution not later than 24 hours after the occurrence. The individual's notice to the commission must include the location, volume, and content of the discharge or spill.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 January 04, 2017 (1381927)

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
WPL INVESTMENTS III, L.L.C. DBA
PINE RIDGE MOBILE HOME PARK;
RN107125288**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2019-0877-MSW-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 ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is WPL Investments III, L.L.C. dba Pine Ridge Mobile Home Park ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owned and operated, a mobile home park located at the corner of Keith Road and Callahan Lane in Lumberton, Hardin County, Texas (the "Site") as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Site contains and/or involves the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on July 9, 2018, and a record review conducted on February 13, 2019, an investigator documented that Respondent:
 - a. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, specifically, approximately 24 cubic yards of MSW, including household trash, were disposed of at the Site outside of the collection bins; and
 - b. Failed to collect MSW containing putrescibles at least once weekly to prevent the propagation and attraction of vectors and the creation of public health nuisances, specifically, waste was not collected at least once weekly.
3. The Executive Director recognizes that Respondent no longer owns or operates the Site as of March 27, 2019.
4. 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 WPL Investments III, L.L.C. dba Pine Ridge Mobile Home Park" (the "EDPRP") in the TCEQ Chief Clerk's office on June 3, 2021.
5. The EDPRP was mailed to Respondent's last known address on June 3, 2021, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on July 15, 2021.
7. By letter dated July 15, 2021, sent to Respondent's last known address 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.

8. 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. 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 MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to collect MSW containing putrescibles at least once weekly to prevent the propagation and attraction of vectors and the creation of public health nuisances, in violation of 30 TEX. ADMIN. CODE § 330.103(a).
4. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 8, 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 two thousand one hundred sixty-five dollars (\$2,165.00) 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 two thousand one hundred sixty-five dollars (\$2,165.00) 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: WPL Investments III, L.L.C. dba Pine Ridge Mobile Home Park; Docket No. 2019-0877-MSW-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. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF MISTY JAMES

"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 WPL Investments III, L.L.C. dba Pine Ridge Mobile Home Park' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 3, 2021.

The EDPRP was mailed to Respondent's last known address on June 3, 2021, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

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 July 15, 2021.

The EDPRP was mailed to Respondent's last known address on July 15, 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 Misty D. James 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 Travis County,
State of Texas,
on the 20th day of July, 2022

A handwritten signature in black ink, appearing to read "Misty James".

Declarant