

**Brand Technologies (TX), Inc.**  
 RN105880892; RN110761160  
 Docket No. 2019-0983-MSW-E

**Order Type:**  
 Default Order

**Media:**  
 MSW

**Small Business:**  
 Yes

**Location(s) Where Violation(s) Occurred:**  
 438 Tayman Street, San Antonio, Bexar County (Site 1); and 16456 Old Corpus Christi, Bexar County (Site 2) (the “Sites”)

**Type of Operation:**  
 transloading and storage service facilities

**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:** March 17, 2023

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$2,500

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

**Total Due to General Revenue:** \$2,500

**Compliance History Classifications:**

Person/CN - N/A  
 Site/RN - Unclassified (Site 1); N/A (Site 2)

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** November 27, 2018 (Site 1); April 11, 2019 (Site 2)  
**Complaint Information:** November 27, 2018: Alleged the site is accepting scrap asphalt shingles that are collected and loaded onto railcars for shipment.  
 April 11, 2019: Alleged the site is receiving scrap asphalt shingles.  
**Date(s) of Investigation:** February 28, 2019 (Site 1); April 11, 2019 (Site 2)  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** July 1, 2019 (Site 1); July 1, 2019 (Site 2)

**Brand Technologies (TX), Inc.**  
RN105880892; RN110761160  
Docket No. 2019-0983-MSW-E

**Violation Information**

Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste (“MSW”) [30 TEX. ADMIN. CODE § 330.15(a) and (c)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately cease disposing of any additional MSW at Site 1 and Site 2.
2. Within 30 days:
  - a. Remove all MSW from Site 1 and dispose of it at an authorized facility; and
  - b. Remove all MSW from Site 2 and dispose of it at an authorized facility.
3. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1, 2.a., and 2.b.

**Litigation Information**

**Date Petition(s) Filed:** January 16, 2020; May 22, 2020

**Date(s) of Service:** unclaimed; May 26, 2020

**Contact Information**

**TCEQ Attorneys:** Clayton Smith, 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:** Stephanie McCurley, Enforcement Division, (512) 239-2607

**TCEQ Regional Contact:** Cameron Lopez, San Antonio Regional Office, (210) 490-3096

**Respondent Contact:** Howard Brand, Director, Brand Technologies (TX), Inc., 14348 Donop Road,  
Elmendorf, Texas 78112

Howard Brand, Director, Brand Technologies (TX), Inc., 1001 East Harmony  
Road Unit A, Fort Collins, Colorado 80525



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

## TCEQ

|              |                 |             |                  |             |                |  |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 8-Jul-2019  | <b>Screening</b> | 10-Jul-2019 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 22-Jul-2021 |                  |             |                |  |

## RESPONDENT/FACILITY INFORMATION

|                             |  |                           |       |
|-----------------------------|--|---------------------------|-------|
| <b>Respondent</b>           | Brand Technologies (TX), Inc. (Site 1) |                           |       |
| <b>Reg. Ent. Ref. No.</b>   | RN105880892                            |                           |       |
| <b>Facility/Site Region</b> | 13-San Antonio                         | <b>Major/Minor Source</b> | Minor |

## CASE INFORMATION

|  |                       |                              |                    |
|--|-----------------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 57955                 | <b>No. of Violations</b>     | 1                  |
| <b>Docket No.</b>                      | 2019-0983-MSW-E       | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Municipal Solid Waste | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                       | <b>Enf. Coordinator</b>      | Alain Elegbe       |
|  |                       | <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> | <b>\$1,250</b> |
|---|-------------------|----------------|

### 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>0.0%</b> Adjustment | <b>Subtotals 2, 3, &amp; 7</b> | <b>\$0</b> |
|---------------------------|------------------------|--------------------------------|------------|

|              |                                       |
|--------------|---------------------------------------|
| <b>Notes</b> | No adjustment for compliance history. |
|--------------|---------------------------------------|

|                    |    |                         |                   |            |
|--------------------|----|-------------------------|-------------------|------------|
| <b>Culpability</b> | No | <b>0.0%</b> Enhancement | <b>Subtotal 4</b> | <b>\$0</b> |
|--------------------|----|-------------------------|-------------------|------------|

|              |  |
|--------------|--|
| <b>Notes</b> | The Respondent does not meet the culpability criteria. |
|--------------|--|

|  |                   |            |
|--|-------------------|------------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | <b>\$0</b> |
|--|-------------------|------------|

|                         |                          |                   |            |
|-------------------------|--------------------------|-------------------|------------|
| <b>Economic Benefit</b> | <b>0.0%</b> Enhancement* | <b>Subtotal 6</b> | <b>\$0</b> |
|-------------------------|--------------------------|-------------------|------------|

|                              |          |                                   |
|------------------------------|----------|-----------------------------------|
| Total EB Amounts             | \$752    | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$14,118 |                                   |

|                             |                       |                |
|-----------------------------|-----------------------|----------------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | <b>\$1,250</b> |
|-----------------------------|-----------------------|----------------|

|   |                        |            |
|---|------------------------|------------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | <b>0.0%</b> Adjustment | <b>\$0</b> |
|---|------------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> |  |
|--------------|--|

|                             |                |
|-----------------------------|----------------|
| <b>Final Penalty Amount</b> | <b>\$1,250</b> |
|-----------------------------|----------------|

|                                   |                               |                |
|-----------------------------------|-------------------------------|----------------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | <b>\$1,250</b> |
|-----------------------------------|-------------------------------|----------------|

|                 |                                  |            |
|-----------------|----------------------------------|------------|
| <b>DEFERRAL</b> | <b>0.0%</b> Reduction Adjustment | <b>\$0</b> |
|-----------------|----------------------------------|------------|

Reduces the Final Assessed Penalty by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> | Deferral not offered for non-expedited settlement. |
|--------------|--|

|                        |                |
|------------------------|----------------|
| <b>PAYABLE PENALTY</b> | <b>\$1,250</b> |
|------------------------|----------------|

|                                |  |                   |                 |                                       |
|--------------------------------|--|-------------------|-----------------|---------------------------------------|
| <b>Screening Date</b>          | 10-Jul-2019                            | <b>Docket No.</b> | 2019-0983-MSW-E | <b>PCW</b>                            |
| <b>Respondent</b>              | Brand Technologies (TX), Inc. (Site 1) |                   |                 | <i>Policy Revision 4 (April 2014)</i> |
| <b>Case ID No.</b>             | 57955                                  |                   |                 | <i>PCW Revision March 26, 2014</i>    |
| <b>Reg. Ent. Reference No.</b> | RN105880892                            |                   |                 |                                       |
| <b>Media</b>                   | Municipal Solid Waste                  |                   |                 |                                       |
| <b>Enf. Coordinator</b>        | Alain Elegbe                           |                   |                 |                                       |

### 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 | 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> )     | 1      | -1%     |
|                               | 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> )  | 1      | -2%     |
| Other                         | Environmental management systems in place for one year or more   | No     | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No     | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No     | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No     | 0%      |

**Adjustment Percentage (Subtotal 2)** 0%

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

No

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

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

N/A

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

**>> Compliance History Summary**

**Compliance History Notes** No adjustment for compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 0%

|                                |  |                   |                 |                                       |
|--------------------------------|--|-------------------|-----------------|---------------------------------------|
| <b>Screening Date</b>          | 10-Jul-2019                            | <b>Docket No.</b> | 2019-0983-MSW-E | <b>PCW</b>                            |
| <b>Respondent</b>              | Brand Technologies (TX), Inc. (Site 1) |                   |                 | <i>Policy Revision 4 (April 2014)</i> |
| <b>Case ID No.</b>             | 57955                                  |                   |                 | <i>PCW Revision March 26, 2014</i>    |
| <b>Reg. Ent. Reference No.</b> | RN105880892                            |                   |                 |                                       |
| <b>Media</b>                   | Municipal Solid Waste                  |                   |                 |                                       |
| <b>Enf. Coordinator</b>        | Alain Elegbe                           |                   |                 |                                       |

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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 checked="" type="checkbox"/> | <input type="text" value="5.0%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/>                |                                   |

**>> Programmatic Matrix**

|  | Falsification        | Major                | Moderate             | Minor                | Percent                           |
|--|----------------------|----------------------|----------------------|----------------------|-----------------------------------|
|  | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0.0%"/> |

**Matrix Notes**

**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 checked="" type="checkbox"/> |
| semiannual   | <input type="text"/>                |
| annual       | <input type="text"/>                |
| single event | <input type="text"/>                |

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

|               | Before NOE/NOV                      | NOE/NOV to EDPRP/Settlement Offer |
|---------------|-------------------------------------|-----------------------------------|
| Extraordinary | <input type="text"/>                | <input type="text"/>              |
| Ordinary      | <input type="text"/>                | <input type="text"/>              |
| N/A           | <input checked="" type="checkbox"/> | <input type="text"/>              |

**Notes**

**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** Brand Technologies (TX), Inc. (Site 1)  
**Case ID No.** 57955  
**Reg. Ent. Reference No.** RN105880892  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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     | \$14,118 | 12-Apr-2019 | 5-May-2020 | 1.07 | \$752 | n/a | \$752 |
| Permit Costs             |          |             |            | 0.00 | \$0   | n/a | \$0   |
| Other (as needed)        |          |             |            | 0.00 | \$0   | n/a | \$0   |

**Notes for DELAYED costs**

Estimated cost to remove all MSW from the Site and dispose of it at an authorized facility. The Date Required is the date the shingles were first observed at the site 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**

\$14,118

**TOTAL**

\$752



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

## TCEQ

|              |                 |            |                  |             |                |  |
|--------------|-----------------|------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 8-Jul-2019 | <b>Screening</b> | 10-Jul-2019 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 5-Nov-2019 |                  |             |                |  |

## RESPONDENT/FACILITY INFORMATION

|                             |  |                           |       |
|-----------------------------|--|---------------------------|-------|
| <b>Respondent</b>           | Brand Technologies (Tx), Inc. (Site 2) |                           |       |
| <b>Reg. Ent. Ref. No.</b>   | RN110761160                            |                           |       |
| <b>Facility/Site Region</b> | 13-San Antonio                         | <b>Major/Minor Source</b> | Minor |

## CASE INFORMATION

|  |                       |                              |                    |
|--|-----------------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 57955                 | <b>No. of Violations</b>     | 1                  |
| <b>Docket No.</b>                      | 2019-0983-MSW-E       | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Municipal Solid Waste | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                       | <b>Enf. Coordinator</b>      | Alain Elegbe       |
|  |                       | <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** **\$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** **0.0%** Adjustment **Subtotals 2, 3, & 7** **\$0**

|              |                                       |
|--------------|---------------------------------------|
| <b>Notes</b> | No adjustment for compliance history. |
|--------------|---------------------------------------|

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

|              |  |
|--------------|--|
| <b>Notes</b> | 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             | \$31  | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$579 |                                   |

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$1,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> |  |
|--------------|--|

**Final Penalty Amount** **\$1,250**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$1,250**

**DEFERRAL** Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> | Deferral not offered for non-expedited settlement. |
|--------------|--|

**PAYABLE PENALTY** **\$1,250**

|                                |  |                   |                 |                                       |
|--------------------------------|--|-------------------|-----------------|---------------------------------------|
| <b>Screening Date</b>          | 10-Jul-2019                            | <b>Docket No.</b> | 2019-0983-MSW-E | <b>PCW</b>                            |
| <b>Respondent</b>              | Brand Technologies (Tx), Inc. (Site 2) |                   |                 | <i>Policy Revision 4 (April 2014)</i> |
| <b>Case ID No.</b>             | 57955                                  |                   |                 | <i>PCW Revision March 26, 2014</i>    |
| <b>Reg. Ent. Reference No.</b> | RN110761160                            |                   |                 |                                       |
| <b>Media</b>                   | Municipal Solid Waste                  |                   |                 |                                       |
| <b>Enf. Coordinator</b>        | Alain Elegbe                           |                   |                 |                                       |

### 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 | 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)** 0%

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

N/A

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

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

N/A

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

>> **Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 0%



|                                |  |                   |                 |                                       |
|--------------------------------|--|-------------------|-----------------|---------------------------------------|
| <b>Screening Date</b>          | 10-Jul-2019                            | <b>Docket No.</b> | 2019-0983-MSW-E | <b>PCW</b>                            |
| <b>Respondent</b>              | Brand Technologies (Tx), Inc. (Site 2) |                   |                 | <i>Policy Revision 4 (April 2014)</i> |
| <b>Case ID No.</b>             | 57955                                  |                   |                 | <i>PCW Revision March 26, 2014</i>    |
| <b>Reg. Ent. Reference No.</b> | RN110761160                            |                   |                 |                                       |
| <b>Media</b>                   | Municipal Solid Waste                  |                   |                 |                                       |
| <b>Enf. Coordinator</b>        | Alain Elegbe                           |                   |                 |                                       |

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**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 checked="" type="checkbox"/> | <input type="text" value="5.0%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/>                |                                   |

>> **Programmatic Matrix**

|  | Falsification        | Major                | Moderate             | Minor                | Percent                           |
|--|----------------------|----------------------|----------------------|----------------------|-----------------------------------|
|  | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0.0%"/> |

**Matrix Notes**

**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 checked="" type="checkbox"/> |
| semiannual   | <input type="text"/>                |
| annual       | <input type="text"/>                |
| single event | <input type="text"/>                |

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

|               | Before NOE/NOV                      | NOE/NOV to EDPRP/Settlement Offer |
|---------------|-------------------------------------|-----------------------------------|
| Extraordinary | <input type="text"/>                | <input type="text"/>              |
| Ordinary      | <input type="text"/>                | <input type="text"/>              |
| N/A           | <input checked="" type="checkbox"/> | <input type="text"/>              |

**Notes**

**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** Brand Technologies (Tx), Inc. (Site 2)  
**Case ID No.** 57955  
**Reg. Ent. Reference No.** RN110761160  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### 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     | \$579 | 11-Apr-2019 | 5-May-2020 | 1.07 | \$31 | n/a | \$31 |
| Permit Costs             |       |             |            | 0.00 | \$0  | n/a | \$0  |
| Other (as needed)        |       |             |            | 0.00 | \$0  | n/a | \$0  |

Notes for DELAYED costs

Estimated cost to remove all MSW from the Site and dispose of it at an authorized facility. The Date Required is the 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

\$579

**TOTAL**

\$31

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 CN605650662, RN105880892, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2013, through August 31, 218.

**Customer, Respondent, or Owner/Operator:** CN605650662, Brand Technologies (Tx), Inc. **Classification:** Not Applicable **Rating:** NA

**Regulated Entity:** RN105880892, East Kelly Rail Transloading **Classification:** UNCLASSIFIED **Rating:** -----

**Complexity Points:** 8 **Repeat Violator:** NO

**CH Group:** 04 - Mining

**Location:** 438 Tayman Street, San Antonio, Bexar County, Texas 78226-1361

**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**

**AIR NEW SOURCE PERMITS PERMIT 113092** **PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 87213**

**STORMWATER PERMIT TXR05DH46** **MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER R13105880892**

**Compliance History Period:** September 01, 2013 to August 31, 2018 **Rating Year:** 2018 **Rating Date:** 09/01/2018

**Date Compliance History Report Prepared:** July 10, 2019

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 10, 2014 to July 10, 2019

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

**Name:** Alain Elegbe

**Phone:** (512) 239-6924

## 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:

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.

N/A

### F. Environmental audits:

Notice of Intent Date: 11/30/2016 (1382186)

Disclosure Date: 01/23/2017

Viol. Classification: Moderate

Citation:

30 TAC Chapter 116, SubChapter B 116.115(b)(2)(A)

30 TAC Chapter 116, SubChapter B 116.115(b)(2)(B)

Rqmt Prov: PERMIT GC Nos. 3 and 4

Description: Failure to submit start of construction, completion of construction, start of operation notification to TCEQ Region 13 San Antonio office.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(iv)

Rqmt Prov: PERMIT SC Nos. 3 and 15(A)

Description: Failure to conduct observations for visible emissions at the properly line and records/documentation were not retained at the site.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(iv)

Rqmt Prov: PERMIT SC Nos 4, 14, and 15(A)

Description: Failure to conduct observations for visible emission emanating from bulk silo dust collector stacks and records/documentation were not retained at the site.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(iv)

Rqmt Prov: PERMIT SC 7 and 15 (C)

Description: Failure to maintain records of road cleaning, application of road dust control, or road maintenance for dust control.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(E)(iv)

Rqmt Prov: PERMIT SC No. 12 and 15(C)

Description: Failure to maintain records demonstrating that raw products, finished products, or waste products were being cleaned up on a daily basis were not maintained.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter K 106.263

Rqmt Prov: PERMIT GC

Description: Failure to maintain documentation of authorized maintenance, startup and shutdown activities.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Description: Failure to have authorization to discharge storm water associated with industrial activities (site does not have a storm water permit or plan).

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter R 335.504

Description: Failure to perform a hazardous waste determination on all solid waste streams.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.62

Description: Failure to classify all waste streams.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9

Description: Failure to maintain documentation on each waste stream.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(e)

Rqmt Prov: PERMIT GC No. 11

Description: Failure to transfer ownership of Permit No. 113092 to CIG Logistics Services, LLC within the required timeframe.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT GC No. 14 and SC No. 5

Description: Failure to comply with permit specific hourly plant-wide throughput limits (500 TPH).

Notice of Intent Date: 11/30/2016 (1382188)

Disclosure Date: 01/23/2017

Viol. Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter F 334.130(b)

Description: Failure to maintain proper documentation demonstrating that a skid mounted 2,000-gallon diesel fuel tank has been registered with the TCEQ.

#### **G. Type of environmental management systems (EMSs):**

N/A

#### **H. Voluntary on-site compliance assessment dates:**

N/A

The TCEQ is committed to accessibility.

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



# TCEQ Compliance History Report

Compliance History Report for CN605650662, RN110761160, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

**Customer, Respondent, or Owner/Operator:** CN605650662, Brand Technologies (Tx), Inc. **Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN110761160, Brand Technologies Tx **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 11 - Waste Management (Excluding Landfills)

**Location:** 16456 Old Corpus Christi Elmendorf, Bexar County, Texas 78112

**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**

**MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER**

R13110761160

**Compliance History Period:** September 01, 2013 to August 31, 2018 **Rating Year:** 2018 **Rating Date:** 09/01/2018

**Date Compliance History Report Prepared:** July 10, 2019

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 10, 2014 to July 10, 2019

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

**Name:** Alain Elegbe

**Phone:** (512) 239-6924

**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.

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  
BRAND TECHNOLOGIES (TX), INC.;  
RN105880892 & RN110761160**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2019-0983-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, 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 Brand Technologies (TX), Inc. (“Respondent”).

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

### **FINDINGS OF FACT**

1. Respondent operates transloading and storage service facilities located at the following locations (collectively referred to as “Sites”):
  - a. East Kelly Rail Transloading, 438 Tayman Street in San Antonio, Bexar County, Texas (“Site 1”); and
  - b. Brand Technologies (TX), 16456 Old Corpus Christi in Elmendorf, Bexar County, Texas (“Site 2”).

The Sites involve the management of municipal solid waste (“MSW”), as defined in TEX. HEALTH & SAFETY CODE ch. 361.

2. During investigations conducted at Site 1 on February 28, 2019, and at Site 2 on April 11, 2019, an investigator documented that Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately 1,243 cubic yards of MSW, consisting of asphalt shingles, were disposed of at Site 1. In addition, 40 cubic yards of MSW, consisting of asphalt shingles, were stored in two roll-off containers at Site 2. Also, approximately seven cubic yards of asphalt shingles were disposed of at Site 2.
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 Brand Technologies (TX), Inc.” (the “EDPRP”) in the TCEQ Chief Clerk’s office on January 16, 2020.
4. The EDPRP was mailed to Respondent’s last known addresses on January 16, 2020, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as “unclaimed.”
5. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk’s office on May 22, 2020.
6. By letter dated May 22, 2020, 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. According to the return receipt “green card,” Respondent received notice of the EDPRP on May 26, 2020, as evidenced by the signature on the card.
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. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c).
3. As evidenced by Findings of Fact Nos. 5 and 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(b)(1).
4. 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.
5. 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.
6. An administrative penalty in the amount of two thousand five hundred dollars (\$2,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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 five hundred dollars (\$2,500.00) 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: Brand Technologies (TX), Inc.; Docket No. 2019-0983-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. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, cease disposing of any additional MSW at Site 1 and Site 2.
  - b. Within 30 days after the effective date of this Order, remove all MSW from Site 1 and dispose of it at an authorized facility.
  - c. Within 30 days after the effective date of this Order, remove all MSW from Site 2 and dispose of it at an authorized facility.



- d. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. through 3.c. 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:

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

and:

Waste Section Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14350 Judson Road  
San Antonio, Texas 78233-4480

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 Sites 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 Enforcement Division 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF JESSE CLAYTON SMITH

“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 Brand Technologies (TX), Inc.’ (the ‘EDPRP’) was filed in the TCEQ Chief Clerk’s office on January 16, 2020.

The EDPRP was mailed to Respondent's last known addresses on January 16, 2020, 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 May 22, 2020.

The EDPRP was mailed to Respondent's last known addresses on May 22, 2020, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt ‘green card,’ Respondent received notice of the EDPRP on May 26, 2020, as evidenced by the signature on the card.

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 Jesse Clayton Smith, 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 6th day of February 2023

A handwritten signature in black ink, appearing to read "Jesse Clayton Smith".

Declarant