

Executive Summary – Enforcement Matter – Case No. 58429
City of Petersburg
RN101453942
Docket No. 2019-1548-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Petersburg citizens' collection station, located one mile southeast of the intersection of Farm-to-Market Road 54 and Farm-to-Market Road 789, Hale County

Type of Operation:

Authorized citizens' collection station

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 8, 2020

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,150

Amount Deferred for Expedited Settlement: \$1,830

Total Paid to General Revenue: \$215

Total Due to General Revenue: \$7,105

Payment Plan: 35 payments of \$203 each

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 21, 2019

Date(s) of NOE(s): October 7, 2019

Executive Summary – Enforcement Matter – Case No. 58429
City of Petersburg
RN101453942
Docket No. 2019-1548-MSW-E

Violation Information

Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste. Specifically, 32,438 cubic yards of tree limbs, brush, pallets, construction / demolition debris, putrescible material, white goods, mattresses, chairs, sofas, tables, approximately 200 scrap tires, and other miscellaneous solid waste were disposed of on the ground at the citizens' collection station which is not permitted as a landfill [30 TEX. ADMIN. CODE § 330.15(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease accepting or disposing of any additional municipal solid waste on the ground at the Facility;
- b. Within 360 days, remove all municipal solid waste that is not containerized at the Facility and properly dispose of it at an authorized facility; and
- c. Within 375 days, submit written certification to demonstrate compliance with a. and b.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Stephanie McCurley, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-2607; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Susie Martinez, Mayor, City of Petersburg, P.O. Box 326, Petersburg, Texas 79250

Mario Martinez, City Manager, City of Petersburg, P.O. Box 326, Petersburg, Texas 79250

Respondent's Attorney: Audie Sciumbato, Sciumbato Law Office, P.C., 242 East 3rd Street, P.O. Box 1655, Hereford, Texas 79045



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 7-Oct-2019 | Screening | 8-Oct-2019 | EPA Due | |
| | PCW | 30-Oct-2019 | | | | |

| | |
|--|--------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | City of Petersburg |
| Reg. Ent. Ref. No. | RN101453942 |
| Facility/Site Region | 2-Lubbock |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 58429 | No. of Violations | 1 |
| Docket No. | 2019-1548-MSW-E | Order Type | 1660 |
| Media Program(s) | Municipal Solid Waste | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Stephanie McCurley |
| | | 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 | \$7,500 |
|---|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------------|--------------------------------|----------------|
| Compliance History | 22.0% Adjustment | Subtotals 2, 3, & 7 | \$1,650 |
|---------------------------|-------------------------|--------------------------------|----------------|

Notes: Enhancement for one previous NOV with dissimilar violations and one Order containing a denial of liability.

| | | | | |
|--------------------|----|-------------------------|-------------------|------------|
| 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: \$28,552
 Estimated Cost of Compliance: \$600,668
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$9,150 |
|-----------------------------|-----------------------|----------------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|----------------|
| Final Penalty Amount | \$9,150 |
|-----------------------------|----------------|

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$9,150 |
|-----------------------------------|-------------------------------|----------------|

| | | | |
|-----------------|------------------------|-------------------|-----------------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$1,830 |
|-----------------|------------------------|-------------------|-----------------|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

| | |
|------------------------|----------------|
| PAYABLE PENALTY | \$7,320 |
|------------------------|----------------|

Screening Date 8-Oct-2019

Docket No. 2019-1548-MSW-E

PCW

Respondent City of Petersburg

Case ID No. 58429

Policy Revision 4 (April 2014)

Reg. Ent. Reference No. RN101453942

PCW Revision March 26, 2014

Media Municipal Solid Waste

Enf. Coordinator Stephanie McCurley

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 | 1 | 2% |
| 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) 22%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one previous NOV with dissimilar violations and one Order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 22%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 22%

Screening Date 8-Oct-2019

Docket No. 2019-1548-MSW-E

PCW

Respondent City of Petersburg

Policy Revision 4 (April 2014)

Case ID No. 58429

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101453942

Media Municipal Solid Waste

Enf. Coordinator Stephanie McCurley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)

Violation Description Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, 32,438 cubic yards of tree limbs, brush, pallets, construction/demolition debris, putrescible material, white goods, mattresses, chairs, sofas, tables, approximately 200 scrap tires, and other miscellaneous solid waste were disposed of on the ground at the citizens' collection station which is not permitted as a landfill.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%). Includes an 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 48

Table with frequency categories: daily, weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$7,500

Two monthly events are recommended from the August 21, 2019 investigation date to the October 8, 2019 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts with columns: Extraordinary, Ordinary, N/A and sub-columns: Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28,552 Violation Final Penalty Total \$9,150

This violation Final Assessed Penalty (adjusted for limits) \$9,150

Economic Benefit Worksheet

Respondent City of Petersburg
Case ID No. 58429
Reg. Ent. Reference No. RN101453942
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 | \$600,668 | 21-Aug-2019 | 2-Aug-2020 | 0.95 | \$28,552 | n/a | \$28,552 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated delayed cost to remove all MSW on the ground at the Facility and properly 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

\$600,668

TOTAL

\$28,552

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 CN600638886, RN101453942, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN600638886, City of Petersburg **Classification:** SATISFACTORY **Rating:** 8.13

Regulated Entity: RN101453942, City of Petersburg **Classification:** SATISFACTORY **Rating:** 8.13

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: located one mile southeast of intersection Farm-to-Market Road 54 and Farm-to-Market Road 789, Hale County, Texas

TCEQ Region: REGION 02 - LUBBOCK

ID Number(s):
WASTEWATER PERMIT WQ0010246001 **WASTEWATER LICENSING LICENSE** WQ0010246001
MUNICIPAL SOLID WASTE PROCESSING REGISTRATION
120002

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

Date Compliance History Report Prepared: January 14, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 14, 2015 to January 14, 2020

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Stephanie McCurley **Phone:** (512) 239-2607

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: 02/13/2015 ADMINORDER 2012-0637-MWD-E (1660 Order-Agreed Order With Denial)
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
- Rqmt Prov: Sludge Provisions PERMIT
- Description: Failure to submit the annual sludge reports for the reporting periods ending July 31, 2007, July 31, 2008, July 31, 2009, July 31, 2010, and July 31, 2011 by September 1 of each year.
- Classification: Major
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Permit Condition 2.g. PERMIT
- Description: Failure to prevent an unauthorized discharge of wastewater from the pond system into or adjacent to water in the state. Specifically, it was documented that wastewater was discharging from effluent holding Pond No. 4 through an overflow pipe into a berm area of approximately 3-5 acres in size. Additionally, a sample collected from the discharge pipe indicated biochemical oxygen demand levels of 77.9 mg/L, total kjeldahl nitrogen levels of 60.6 mg/L and total suspended solids levels of 41.3 mg/L.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Special Provision 11. PERMIT
- Description: Failure to conduct the annual soil sampling from the root zone of the disposal site and submit the results to the TCEQ Regional Office and the Water Quality Compliance Monitoring Team during September of years 2007, 2008,

2009, 2010 and 2011.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Operational Requirement 1. PERMIT

Description: Failure to properly operate and maintain the treatment Facility to achieve optimum efficiency of the treatment capabilities of the effluent holding ponds. Specifically, sludge had accumulated in Pond No. 1 and was visible at the surface near the surface and sludge was also near the surface around the inflow area of Pond No. 2.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Special Provision 12. PERMIT

Special Provision 5. PERMIT

Description: Failure to provide equipment to determine effluent application rates and to install permanent transmission lines from the holding pond to each tract of land to be irrigated with effluent from the pond.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 08/30/2019 (1581475)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirement 5 PERMIT
Description: Failure to maintain a means for measuring effluent flow. During the investigation it was noted the effluent flow meter was not functional and had not been for approximately one (1) year. Per Water Quality permit number WQ0010246001, Operational Requirement 5, "Unless otherwise specified, the permittee shall provide a readily accessible sampling point and, where applicable, an effluent flow measuring device or other acceptable means by which effluent flow may be determined."
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 217, SubChapter B 217.33(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring Requirement 5 PERMIT
Description: Failure to calibrate the influent automatic flow measuring device at least annually, as required by Permit No. WQ0010246001. The permittee measures influent flow with a Magnetrol Echotel 355 meter with flow totalizer. During this investigation it was noted the meter had been calibrated on May 30, 2017, September 27, 2018, and May 31, 2019. As the September 27, 2018 calibration was conducted more than twelve (12) months since the 2017 calibration, a violation was alleged per Water Quality per
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations PERMIT
Description: Failure to meet self-monitored effluent quality limitations regarding Biochemical Oxygen Demand (BOD), as specified by Water Quality permit number WQ0010246001. The following BOD exceedance of the 100 mg/l permit limit was noted: December 2018 - 161 mg/l.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring Requirement 7.c PERMIT
Description: Failure to report a self-monitored effluent quality violation which deviated from the permitted effluent limitation by more than 40%, as specified by Monitoring Requirement 7.c. of Water Quality permit number WQ0010246001. The following Biochemical Oxygen Demand (BOD) exceedance of the 100 mg/l permit limit was noted: December 2018 - 161 mg/l. This exceedance was not reported to the TCEQ Region 2 Lubbock Office.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Special Provision 3 PERMIT

Description: Failure to maintain the wastewater treatment facility regarding vegetation. A significant amount of vegetation was noted along the pond berms of the effluent holding ponds, in and around the sludge drying beds, and along the intruder resistant fencing.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Special Provisions 8 PERMIT

Description: Failure to erect signs stating water is from a non-potable water supply at the wastewater treatment plant. At the time of the investigation, no signs were noted around the wastewater facility.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.7(e)

Description: Failure to have an intruder resistant 8-foot fence with one (1) strand of barbed wire around the Imhoff tank. The wastewater treatment facility has a 6-foot chain link fence with three (3) strands of barbed wire around it.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Special Condition 11 PERMIT

Description: Failure to properly report annual soil sampling of the land application area, as required by Special Provision 11 of Permit Number WQ0010246001.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF PETERSBURG
RN101453942**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2019-1548-MSW-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Petersburg (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Audie Sciumbato of the law firm of Sciumbato Law Office, P.C., together stipulate that:

1. The Respondent owns and operates an authorized citizens' collection station located one mile southeast of intersection Farm-to-Market Road 54 and Farm-to-Market Road 789, Hale County, Texas (the "Facility"). The Facility involves or involved the management of municipal solid waste ("MSW") including scrap tires as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the 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 the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$9,150 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$215 of the penalty and \$1,830 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$7,105 of the undeferred penalty shall be paid in 35 monthly payments of \$203 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in

full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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 the Respondent has not complied with one or more of the terms or conditions 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 compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During an investigation conducted on August 21, 2019, an investigator documented that the Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c). Specifically, 32,438 cubic yards of tree limbs, brush, pallets, construction/demolition debris, putrescible material, white goods, mattresses, chairs, sofas, tables, approximately 200 scrap tires, and other miscellaneous solid waste were disposed of on the ground at the citizens' collection station which is not permitted as a landfill.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No.4. The payment of this penalty and the 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 action or penalties for

violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Petersburg, Docket No. 2019-1548-MSW-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, cease accepting or disposing of any additional MSW on the ground at the Facility;
 - b. Within 360 days of the effective date of this Order, remove all MSW that is not containerized at the Facility and properly dispose of it at an authorized facility; and
 - c. Within 375 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. The certification shall be signed by the 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3426

3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The 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.
5. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. 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.
9. 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



10/24/2022

For the Executive Director

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, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

8-1-22

Date

Mario Martinez

Name (Printed or typed)
Authorized Representative of
City of Petersburg

City Manager

Title

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