

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 49845
YGRIEGA ENVIRONMENTAL SERVICES, LLC
RN107742637
Docket No. 2019-1579-MSW-E

Page 1 of 2

Order Type:
Agreed Order

Media:
MSW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
410 North 87th Street, Edinburg, Hidalgo County

Type of Operation:
used oil transfer facility

Other Significant Matters:
Additional Pending Enforcement Actions: 2020-0768-MLM-E

Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third Parties: None

Texas Register Publication Date: January 7, 2022
Comments Received: None

Penalty Information

Total Penalty Assessed: \$20,039
Total Paid to General Revenue: \$579
Total Due to General Revenue: \$19,460
Payment Plan: 35 payments of \$556 each

Compliance History Classifications:
Person/CN - High
Site/RN - Unclassified

Major Source: No
Statutory Limit Adjustment: None
Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: January 18, 2019
Date(s) of NOV(s): N/A
Date(s) of NOE(s): April 1, 2019

Violation Information

1. Failed to develop a plan to prevent spills and respond to spills in accordance with the federal spill prevention, control, and countermeasure (“SPCC”) requirements provided by 40 C.F.R. Part 112 [40 C.F.R. §§ 112.3 and 112.7, 30 TEX. ADMIN. CODE § 328.28, and TCEQ Agreed Order Docket No. 2014-1887-MSW-E, Ordering Provision No. 2.b.i.].
2. Failed to provide evidence of financial responsibility to assure that the Facility has sufficient assets to provide for proper soil remediation and closure [30 TEX. ADMIN. CODE §§ 37.2011, 324.22(c), and 328.24(e) and TCEQ Agreed Order Docket No. 2014-1887-MSW-E, Ordering Provision No. 2.b.vii.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Develop and implement an SPCC plan for the used oil filters and used oil handled by the Facility;
 - b. Demonstrate acceptable financial assurance to assure that the Facility has sufficient assets to provide for proper closure and soil remediation; and
 - c. In lieu of Technical Requirements Nos. 1.a. and 1.b., remove used oil from the Facility and dispose of it at an authorized facility.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.

Litigation Information

Date Petition(s) Filed: July 14, 2020 (EDPRP); October 21, 2020 (EDFARP)
Date Green Card(s) Signed: July 16, 2020 (EDPRP); October 26, 2020 (EDFARP)
Date Answer(s) Filed: November 3, 2020
SOAH Referral Date: May 25, 2021
Hearing Date(s):
Preliminary hearing: August 19, 2021 (waived)
Settlement Date: November 16, 2021

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: John Fennell, Enforcement, (512) 239-2616
TCEQ Regional Contact: Francisco J. Chavero, Jr., Harlingen Regional Office, (956) 425-6010
Respondent Contact: Arnoldo A. Maldonado, President, YGRIEGA ENVIRONMENTAL SERVICES, LLC,
P.O. Box 250, La Blanca, Texas 78558-0250
Respondent's Attorney: Jonathan L. Almanza, Law Office of Jonathan L. Almanza, PLLC, 222 West
University Drive, Edinburg, Texas 78539



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	8-Apr-2019	Screening	18-Apr-2019	EPA Due	
	PCW	14-Oct-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	YGRIEGA ENVIRONMENTAL SERVICES, LLC		
Reg. Ent. Ref. No.	RN107742637		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	49845	No. of Violations	2
Docket No.	2019-1579-MSW-E	Order Type	Findings
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Used Oil Filter	Enf. Coordinator	John Fennell
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	30.0%	Adjustment	Subtotals 2, 3, & 7	\$2,550
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Notes: Enhancement for two agreed orders containing denials of liability.
Reduction for High Performer classification.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$9,609
Estimated Cost of Compliance: #NAME?
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,050
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OTHER FACTORS AS JUSTICE MAY REQUIRE	81.3%	Adjustment	\$8,989
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation No. 2.

Final Penalty Amount	\$20,039
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,039
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$20,039
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Screening Date	18-Apr-2019	Docket No.	2019-1579-MSW-E	PCW
Respondent	YGRIEGA ENVIRONMENTAL SERVICES, LLC			Policy Revision 4 (April 2014)
Case ID No.	49845			PCW Revision March 26, 2014
Reg. Ent. Reference No.	RN107742637			
Media	Used Oil			
Enf. Coordinator	John Fennell			

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>)	2	40%
	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) 40%

>> Repeat Violator (Subtotal 3)

No **Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer **Adjustment Percentage (Subtotal 7)** -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for two agreed orders containing denials of liability. Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date	18-Apr-2019	Docket No.	2019-1579-MSW-E	PCW
Respondent	YGRIEGA ENVIRONMENTAL SERVICES, LLC			Policy Revision 4 (April 2014)
Case ID No.	49845			PCW Revision March 26, 2014
Reg. Ent. Reference No.	RN107742637			
Media	Used Oil			
Enf. Coordinator	John Fennell			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 328.28, 40 Code of Federal Regulations ("CFR") §§ 112.3 and 112.7, and TCEQ Agreed Order Docket No. 2014-1887-MSW-E, Ordering Provision 2.b.i			
Violation Description	Failed to develop a plan to prevent spills and respond to spills in accordance with the federal spill prevention, control, and countermeasure ("SPCC") requirements provided by 40 CFR, Part 112.			
		Base Penalty	\$5,000	

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events	33	975	Number of violation days
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	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			

Violation Base Penalty \$8,250

Thirty-three monthly events are recommended from the August 16, 2016 effective date of TCEQ Agreed Order 2014-1887-MSW-E to the April 18, 2019 screening date.

Good Faith Efforts to Comply

	0.0%		
			Reduction \$0

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

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

Violation Subtotal \$8,250

Economic Benefit (EB) for this violation

Estimated EB Amount	\$87	Violation Final Penalty Total	\$19,450
This violation Final Assessed Penalty (adjusted for limits)			\$19,450

Economic Benefit Worksheet

Respondent YGRIEGA ENVIRONMENTAL SERVICES, LLC
Case ID No. 49845
Reg. Ent. Reference No. RN107742637
Media Used Oil
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)	\$500	16-Aug-2016	2-Feb-2020	3.47	\$87	n/a	\$87

Notes for DELAYED costs

Estimated cost to establish and implement a process for reporting, preventing, containing, and cleaning up releases of used oil. The Date Required is the effective date of TCEQ Agreed Order 2014-1887-MSW-E. 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

\$500

TOTAL

\$87

Screening Date	18-Apr-2019	Docket No.	2019-1579-MSW-E	PCW
Respondent	YGRIEGA ENVIRONMENTAL SERVICES, LLC	Policy Revision 4 (April 2014)		
Case ID No.	49845	PCW Revision March 26, 2014		
Reg. Ent. Reference No.	RN107742637			
Media	Used Oil			
Enf. Coordinator	John Fennell			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code §§ 37.2011, 324.22(c) and 328.24(e) and TCEQ Agreed Order Docket No. 2014-1887-MSW-E, Ordering Provision 2.b.vii			
Violation Description	Failed to provide evidence of financial responsibility to assure that the Facility has sufficient assets to provide for proper soil remediation and closure.			
Base Penalty				\$5,000

>> Environmental, Property and Human Health Matrix

OR		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential				Percent	0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
		x				
					Percent	5.0%

Matrix Notes	100% of the rule requirement was not met.
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Adjustment	\$4,750
	\$250

Violation Events

Number of Violation Events	1	Number of violation days	975														
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x		
daily																	
weekly																	
monthly																	
quarterly																	
semiannual																	
annual																	
single event	x																
Violation Base Penalty			\$250														

One single event is recommended.

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			\$250	

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount	\$9,522
Violation Final Penalty Total	\$589
This violation Final Assessed Penalty (adjusted for limits)	
\$589	

Economic Benefit Worksheet

Respondent YGRIEGA ENVIRONMENTAL SERVICES, LLC
Case ID No. 49845
Reg. Ent. Reference No. RN107742637
Media Used Oil
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,075	16-Aug-2016	2-Feb-2020	3.47	\$533	n/a	\$533

Notes for DELAYED costs

Estimated delayed cost (\$61,500 x 5%, annualized) to provide financial assurance for soil remediation and closure of the Facility. The Date Required is the investigation date. 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	\$3,075	16-Aug-2016	18-Apr-2019	2.67	\$775	\$8,214	\$8,989
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost (\$61,500 x 5%, annualized) to provide financial assurance for soil remediation and closure of the Facility. The Date Required is the effective date of TCEQ Agreed Order 2014-1887-MSW-E. The Final Date is the screening date.

Approx. Cost of Compliance

\$11,289

TOTAL

\$9,522



Compliance History Report

Compliance History Report for CN603725557, YGRIEGA ENVIRONMENTAL SERVICES, LLC
components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN603725557, YGRIEGA ENVIRONMENTAL SERVICES, LLC
Classification: HIGH **Rating:** 0.00

Regulated Entity: RN107742637, YGRIEGA ENVIRONMENTAL SERVICES TRANSFER FACILITY
Classification: UNCLASSIFIED **Rating:** -----

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 410 NORTH 87TH STREET EDINBURG, HIDALGO COUNTY, TEXAS 78542-4156

TCEQ Region: REGION 15 - HARLINGEN

ID Number(s):

MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
HAU0174

USED OIL EPA ID TXR000083111

USED OIL REGISTRATION A86263

INDUSTRIAL AND HAZARDOUS WASTE EPA ID
TXR000083111

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 96035

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

Date Compliance History Report Prepared: October 14, 2021

Agency Decision Requiring Compliance History: Enforcement

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

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

Name: John Fennell

Phone: (512) 239-2616

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: 08/16/2016 ADMINORDER 2014-1887-MSW-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.1

40 CFR Chapter 112, SubChapter D, PT 112 112.7

40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.45

Description: Failure of the used oil transporter to maintain a SPCC (Spill Prevention, Control and Countermeasures) Plan.

Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.1

40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.45(d)

40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.45(e)

40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.45(f)

Description: Failure to provide a secondary containment system for containers and aboveground storage tanks used to store used oil.

Classification: Minor

Citation: 30 TAC Chapter 324, SubChapter A 324.1

40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.45(g)

Description: Failure to label containers with the words, "Used Oil."

Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.15
 30 TAC Chapter 327 327.4(b)
 40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.45(h)
 Description: Failure to perform proper clean up and notification of used oil spills.
 Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.1
 40 CFR Chapter 279, SubChapter I, PT 279, SubPT E 279.44(d)
 Description: Failure to perform analyses to support rebuttable presumption and retain records for three years.
 Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter D 328.23(a)
 Description: Failure to store used oil filters in a manner to not cause discharge of oil.
 Classification: Major

Citation: 30 TAC Chapter 328, SubChapter D 328.24(a)
 Description: Failure to register as a transfer facility using an agency form and failure to have a valid registration prior to operation.
 Classification: Moderate

Citation: 30 TAC Chapter 328, SubChapter D 328.24(c)(1)
 Description: Failure to submit a used oil filter Bi-annual report on January 25th on even years.
 Classification: Major

Citation: 30 TAC Chapter 324, SubChapter A 324.22(c)
 30 TAC Chapter 328, SubChapter D 328.24(e)
 30 TAC Chapter 37, SubChapter L 37.2011
 Description: Failure to comply with financial assurance requirements for used oil filter transporters and transfer facilities.
 Classification: Minor

Citation: 30 TAC Chapter 328, SubChapter D 328.25(a)
 Description: Failure to maintain that shipments of used oil filters are accompanied by a bill of lading and transported to a registered facility.

2 Effective Date: 07/06/2020 ADMINORDER 2019-1532-AIR-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter A 101.4
 5C THSC Chapter 382 382.085(a)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to prevent nuisance odor conditions.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

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

Component Appendices

Appendix A

All NOV's Issued During Component Period 7/14/2015 and 7/14/2020

N/A

Appendix B

All Investigations Conducted During Component Period July 14, 2015 and July 14, 2020

Item 1 April 01, 2019** (1551669)

Item 2 May 18, 2020 (1624737)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT
ACTION CONCERNING
YGRIEGA ENVIRONMENTAL
SERVICES, LLC;
RN107742637

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2019-1579-MSW-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding YGRIEGA ENVIRONMENTAL SERVICES, LLC ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 371. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Jonathan L. Almanza of the Law Office of Jonathan L. Almanza, PLLC, presented this Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon Respondent.

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

FINDINGS OF FACT

1. Respondent operates a used oil transfer facility located at 410 North 87th Street in Edinburg, Hidalgo County, Texas (the "Facility"). The Facility involves the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. During an investigation conducted on January 18, 2019, an investigator documented that Respondent:
 - a. Failed to develop a plan to prevent spills and respond to spills in accordance with the federal spill prevention, control, and countermeasure ("SPCC") requirements provided by 40 C.F.R. Part 112; and
 - b. Failed to provide evidence of financial responsibility to assure that the Facility has sufficient assets to provide for proper soil remediation and closure.

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. 371 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to develop a plan to prevent spills and respond to spills in accordance with the federal SPCC requirements provided by 40 C.F.R. Part 112, in violation of 40 C.F.R. §§ 112.3 and 112.7, 30 TEX. ADMIN. CODE

§ 328.28, and TCEQ Agreed Order Docket No. 2014-1887-MSW-E, Ordering Provision No. 2.b.i.

3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide evidence of financial responsibility to assure that the Facility has sufficient assets to provide for proper soil remediation and closure, in violation of 30 TEX. ADMIN. CODE §§ 37.2011, 324.22(c), and 328.24(e) and TCEQ Agreed Order Docket No. 2014-1887-MSW-E, Ordering Provision No. 2.b.vii.
4. Pursuant to TEX. WATER CODE § 7.051, TCEQ 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.
5. An administrative penalty in the amount of twenty thousand thirty-nine dollars (\$20,039.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid five hundred seventy-nine dollars (\$579.00) of the penalty. The remaining amount of nineteen thousand four hundred sixty dollars (\$19,460.00) shall be paid in thirty-five (35) monthly payments of five hundred fifty-six dollars (\$556.00) 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 Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all 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. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: YGRIEGA ENVIRONMENTAL SERVICES, LLC, Docket No. 2019-1579-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

2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Develop and implement an SPCC plan for the used oil filters and used oil handled by the Facility, in accordance with 40 C.F.R. Part 112 and 30 TEX. ADMIN. CODE § 328.28; and

- ii. Demonstrate acceptable financial assurance to assure that the Facility has sufficient assets to provide for proper closure and soil remediation, in accordance with 30 TEX. ADMIN. CODE § 37.2001; or
- iii. In lieu of Ordering Provisions Nos. 2.a.i. and 2.a.ii., remove used oil from the Facility and dispose of it at an authorized facility.
- b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

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

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

and:

Waste Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

- 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 Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
- 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
- 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. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings 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. 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.
11. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Erin E. Chahal

For the Executive Director

02/23/22

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

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

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



Signature - Arnoldo A. Maldonado, President
YGRIEGA ENVIRONMENTAL SERVICES, LLC
P.O. Box 250
La Blanca, Texas 78558-0250

11/16/21

Date

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