

## TCEQ Interoffice Memorandum

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**To:** Mary Smith, General Counsel  
Dinniah Tadema, Assistant General Counsel

**Thru:** *JSR* Jess Robinson, Senior Attorney  
Litigation Division

**From:** *BLP* Benjamin Pence, Staff Attorney  
Litigation Division

**Date:** January 31, 2023

**Subject:** **Backup Revision**  
**February 8, 2023 Commission Agenda**  
Draft Item No. 8 - Bobby Krout  
Docket No. 2020-0388-MSW-E

Enclosed please find the following:

**Page 2 of the Default Order:**

Conclusion of Law of No. 5 is revised to reference "Findings of Fact Nos. 3 and 4,"  
and Conclusion of Law No. 6 is revised to reference "Finding of Fact No. 5."

Respondent Contacts:

Bobby Krout  
3553 Vinetta Drive  
Fort Worth, Texas 76119

Bobby Krout  
3824 Avenue M  
Fort Worth, Texas 76119

Bobby Krout  
7120 Retta Mansfield Road  
Mansfield, Texas 76063

Phone: 817-443-4078

A replacement original and redline copy are enclosed. Please do not hesitate to call me at (512) 239-2157 if you have any questions regarding this matter.

cc: Stephanie McCurley, Enforcement Division  
Erin Gorman, Dallas/Fort Worth Regional Office  
Gill Valls, Office of the General Counsel  
Sheldon Wayne, Office of Public Interest Counsel  
Michael Parrish, Enforcement Division  
Leslie Gann, Enforcement Division  
Stuart Beckley, Enforcement Division  
Dinniah Tadema, Office of the General Counsel

2. As evidenced by Finding of Fact No. 2.a., Respondent failed to register as a scrap tire transporter prior to transporting scrap tires, in violation of 30 TEX. ADMIN. CODE § 328.57(c)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to retain all manifests, work orders and invoices showing the collection and disposition of all used or scrap tires and tire pieces, in violation of TEX. HEALTH & SAFETY CODE § 361.112(g) and 30 TEX. ADMIN. CODE § 328.57(d); and,
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers or lockable containers, in violation of TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE § 328.60(a).
5. As evidenced by Findings of Fact Nos. 3 ~~and 4 through 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).
6. As evidenced by Finding of Fact No. ~~57~~, 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.
7. 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.
8. An administrative penalty in the amount of twelve thousand thirty-seven dollars (\$12,037.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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 twelve thousand thirty-seven dollars (\$12,037.00) 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: Bobby Krout; Docket No. 2020-0388-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:

2. As evidenced by Finding of Fact No. 2.a., Respondent failed to register as a scrap tire transporter prior to transporting scrap tires, in violation of 30 TEX. ADMIN. CODE § 328.57(c)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to retain all manifests, work orders and invoices showing the collection and disposition of all used or scrap tires and tire pieces, in violation of TEX. HEALTH & SAFETY CODE § 361.112(g) and 30 TEX. ADMIN. CODE § 328.57(d); and,
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers or lockable containers, in violation of TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE § 328.60(a).
5. As evidenced by Findings of Fact Nos. 3 and 4, 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).
6. As evidenced by Finding of Fact No. 5, 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.
7. 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.
8. An administrative penalty in the amount of twelve thousand thirty-seven dollars (\$12,037.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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 twelve thousand thirty-seven dollars (\$12,037.00) 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: Bobby Krout; Docket No. 2020-0388-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:

**Bobby Krout**  
**RN110651510**  
**Docket No. 2020-0388-MSW-E**

**Order Type:**  
 Default Order

**Media:**  
 MSW

**Small Business:**  
 Yes

**Location(s) Where Violation(s) Occurred:**  
 7120 Retta Mansfield Road, Mansfield, Tarrant County (the “Site”)

**Type of Operation:**  
 unauthorized scrap tire storage site and an unauthorized scrap tire transporter site

**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:** December 23, 2022

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$12,037

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

**Total Due to General Revenue:** \$12,037

**Compliance History Classifications:**

Person/CN – SATISFACTORY  
 Site/RN – SATISFACTORY

**Major Source:** Yes; No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** January 9, 2019

**Complaint Information:** The complainant alleges that garbage is being burned on-site. The complainant alleges the storage of up to one thousand tires on the property without a valid permit.

**Date(s) of Investigation:** January 23, 2019; September 30, 2019

**Date(s) of NOV(s):** March 19, 2019; November 14, 2019

**Date(s) of NOE(s):** November 14, 2019

**Bobby Krout**  
RN110651510  
Docket No. 2020-0388-MSW-E

**Violation Information**

1. Failed to register as a scrap tire transporter prior to transporting scrap tires [30 TEX. ADMIN. CODE § 328.57(c)(1)].
2. Failed to retain all manifests, work orders and invoices showing the collection and disposition of all used or scrap tires and tire pieces [TEX. HEALTH & SAFETY CODE § 361.112(g) and 30 TEX. ADMIN. CODE § 328.57(d)].
3. Failed to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers or lockable containers [TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE § 328.60(a)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately:
  - a. Cease transporting scrap tires until authorization is obtained; and
  - b. Cease storing scrap tires until authorization is obtained.
2. Within 30 days:
  - a. Obtain a scrap tire transporter registration; and
  - b. Begin retaining transporter records; or
  - c. In lieu of 2.a. and 2.b., cease transporting scrap tires.
3. Additionally, within 30 days:
  - a. Obtain a scrap tire storage site registration; or
  - b. In lieu of 3.a., reduce the number of used and scrap tires to less than 500 on the ground or less than 2,000 in lockable containers.
4. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos, 1.a. and 1.b., 2.a. and 2.b., or 2.c., and 3.a. or 3.b.

**Litigation Information**

**Date Petition(s) Filed:** July 6, 2021

**Date Green Card(s) Signed:** July 9, 2021

**Date Answer(s) Filed:** N/A

**Bobby Krout**  
RN110651510  
Docket No. 2020-0388-MSW-E

**Contact Information**

**TCEQ Attorneys:** Benjamin Pence, 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:** Erin Gorman, Dallas/Fort Worth Regional Office, (817) 588-5800

**Respondent Contact:** Bobby Krout, 7120 Retta Mansfield Road, Mansfield, Texas 76063  
3553 Vinetta Drive Fort Worth, Texas 76119  
3824 Avenue M Fort Worth, Texas 76119

**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	18-Nov-2019	<b>Screening</b>	7-Feb-2020	<b>EPA Due</b>	
	<b>PCW</b>	22-May-2020				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Bobby Krout
<b>Reg. Ent. Ref. No.</b>	RN110651510
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	59059	<b>No. of Violations</b>	2
<b>Docket No.</b>	2020-0388-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Waste Tires	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	John Fennell
		<b>EC's Team</b>	Enforcement Team 7
<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>	\$3,750
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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.

<b>Compliance History</b>	7.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$262
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Notes: Enhancement for one NOV with same/similar violations and one NOV with dissimilar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$19  
 Estimated Cost of Compliance: \$235  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,012
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$4,012
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$4,012
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<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$4,012
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<b>Screening Date</b>	7-Feb-2020	<b>Docket No.</b>	2020-0388-MSW-E	<b>PCW</b>
<b>Respondent</b>	Bobby Krout			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	59059			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN110651510			
<b>Media</b>	Waste Tires			
<b>Enf. Coordinator</b>	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> )	1	5%
	Other written NOVs	1	2%
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)** 7%

**>> 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 NOV with same/similar violations and one NOV with dissimilar violations.

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

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 7%

<b>Screening Date</b>	7-Feb-2020	<b>Docket No.</b>	2020-0388-MSW-E	<b>PCW</b>
<b>Respondent</b>	Bobby Krout			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	59059			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN110651510			
<b>Media</b>	Waste Tires			
<b>Enf. Coordinator</b>	John Fennell			

**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 type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
<input type="text" value="100% of the rule requirement was not met."/>					

**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="text" value="x"/>
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="text" value="x"/>	<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** Bobby Krout  
**Case ID No.** 59059  
**Reg. Ent. Reference No.** RN110651510  
**Media** Waste Tires  
**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
Registration Costs	\$100	23-Jan-2019	13-Sep-2020	1.64	\$8	n/a	\$8
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed cost to obtain a scrap tire transporter registration. The Date Required is the initial investigation date, and the Final Date is the estimated compliance date.

### 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**

\$100

**TOTAL**

\$8

<b>Screening Date</b>	7-Feb-2020	<b>Docket No.</b>	2020-0388-MSW-E	<b>PCW</b>
<b>Respondent</b>	Bobby Krout			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	59059			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN110651510			
<b>Media</b>	Waste Tires			
<b>Enf. Coordinator</b>	John Fennell			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

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

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="5.0%"/>
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirement was not met."/>				

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

**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="text" value="x"/>	<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** Bobby Krout  
**Case ID No.** 59059  
**Reg. Ent. Reference No.** RN110651510  
**Media** Waste Tires  
**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	\$135	23-Jan-2019	13-Sep-2020	1.64	\$11	n/a	\$11
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to retain manifests, work order, and invoices (\$45 each). The Date Required is the initial investigation date, and the Final Date is the estimated compliance date.

### 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**

\$135
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**TOTAL**

\$11
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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	18-Nov-2019	<b>Screening</b>	7-Feb-2020	<b>EPA Due</b>	
	<b>PCW</b>	22-May-2020				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Bobby Krout
<b>Reg. Ent. Ref. No.</b>	RN110651510
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	59059	<b>No. of Violations</b>	1
<b>Docket No.</b>	2020-0388-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Waste Tires	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	John Fennell
		<b>EC's Team</b>	Enforcement Team 7
<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>	\$7,500
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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.

<b>Compliance History</b>	7.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$525
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Notes: Enhancement for one NOV with same/similar violations and one NOV with dissimilar violations.

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

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

<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$821  
 Estimated Cost of Compliance: \$10,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$8,025
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$8,025
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$8,025
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<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$8,025
------------------------	---------

<b>Screening Date</b>	7-Feb-2020	<b>Docket No.</b>	2020-0388-MSW-E	<b>PCW</b>
<b>Respondent</b>	Bobby Krout			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	59059			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN110651510			
<b>Media</b>	Waste Tires			
<b>Enf. Coordinator</b>	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> )	1	5%
	Other written NOVs	1	2%
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)** 7%

**>> 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 NOV with same/similar violations and one NOV with dissimilar violations.

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

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 7%

<b>Screening Date</b>	7-Feb-2020	<b>Docket No.</b>	2020-0388-MSW-E	<b>PCW</b>
<b>Respondent</b>	Bobby Krout			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	59059			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN110651510			
<b>Media</b>	Waste Tires			
<b>Enf. Coordinator</b>	John Fennell			

**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 type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>
<input type="text" value="100% of the rule requirement was not met."/>					

**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="text" value="x"/>
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="text" value="x"/>	<input type="text"/>
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	

**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** Bobby Krout  
**Case ID No.** 59059  
**Reg. Ent. Reference No.** RN110651510  
**Media** Waste Tires  
**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
Registration Costs	\$10,000	23-Jan-2019	13-Sep-2020	1.64	\$821	n/a	\$821
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated delayed cost to obtain a scrap tire storage site registration. The Date Required is the initial investigation date, and the Final Date is the estimated compliance date.

### 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**

\$10,000

**TOTAL**

\$821

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 CN605617463, RN110651510, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

**Customer, Respondent, or Owner/Operator:** CN605617463, Bobby Krout      **Classification:** SATISFACTORY      **Rating:** 24.00  
**Regulated Entity:** RN110651510, Tom Holloway      **Classification:** SATISFACTORY      **Rating:** 24.00  
**Complexity Points:** 1      **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** 7120 RETTA MANSFIELD ROAD IN MANSFIELD, TARRANT COUNTY, TEXAS 76063-4701  
**TCEQ Region:** REGION 04 - DFW METROPLEX

## ID Number(s):

**AIR QUALITY NON PERMITTED ID NUMBER**  
R04110651510

**MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER**  
R04110651510

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

**Date Compliance History Report Prepared:** March 05, 2020

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 05, 2015 to March 05, 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:

N/A

### 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.

- 1      Date: 03/19/2019 (1538572)  
Self Report? NO      Classification: Major  
Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)  
Description: Failure to obtain authorization to store more than 500 scrap tires on the ground.  
Self Report? NO      Classification: Major  
Citation: 30 TAC Chapter 328, SubChapter F 328.57(c)(1)  
Description: Failure to register as a scrap tire transporter prior to transporting scrap tires.  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 328, SubChapter F 328.57(d)  
Description: Failure to maintain documentation for the removal and disposition of scrap tires for three years and make it available to the TCEQ upon request.

2 Date: 11/14/2019 (1598911)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)  
30 TAC Chapter 330, SubChapter A 330.15(c)  
Description: Failure to prevent the unauthorized storage of municipal solid waste (scrap tires).

**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 NOVs Issued During Component Period 3/5/2015 and 3/5/2020**

1\* Date: 03/19/2019 (1538572) Classification: Major  
Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 328, SubChapter F 328.60(a)  
Description: Failure to obtain authorization to store more than 500 scrap tires on the ground.  
Classification: Major  
Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 328, SubChapter F 328.57(c)(1)  
Description: Failure to register as a scrap tire transporter prior to transporting scrap tires.  
Classification: Moderate  
Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 328, SubChapter F 328.57(d)  
Description: Failure to maintain documentation for the removal and disposition of scrap tires for three years and make it available to the TCEQ upon request.

2 Date: 11/14/2019 (1598911) Classification: Moderate  
Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)  
30 TAC Chapter 330, SubChapter A 330.15(c)  
Description: Failure to prevent the unauthorized storage of municipal solid waste (scrap tires).

\* NOVs applicable for the Compliance History rating period 9/1/2014 to 8/31/2019

**Appendix B**

**All Investigations Conducted During Component Period March 05, 2015 and March 05, 2020**

(1598911)

Item 1 November 14, 2019 For Informational Purposes Only

\* 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  
BOBBY KROUT;  
RN110651510**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2020-0388-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 Bobby Krout ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent operates an unauthorized scrap tire storage site and an unauthorized scrap tire transporter site located at 7120 Retta Mansfield Road in Mansfield, Tarrant County, Texas (the "Site"). The Site involves or involved the management of municipal solid waste ("MSW"), including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During investigations conducted on January 23, 2019 and September 30, 2019, an investigator documented that Respondent:
  - a. Failed to register as a scrap tire transporter prior to transporting scrap tires;
  - b. Failed to retain all manifests, work orders and invoices showing the collection and disposition of all used or scrap tires and tire pieces; and
  - c. Failed to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers or lockable containers. Specifically, approximately 1,310 scrap tires were stored on the ground without a storage site registration.
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 Bobby Krout" (the "EDPRP") in the TCEQ Chief Clerk's office on July 6, 2021.
4. By letter dated July 6, 2021, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on July 9, 2021.
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.

2. As evidenced by Finding of Fact No. 2.a., Respondent failed to register as a scrap tire transporter prior to transporting scrap tires, in violation of 30 TEX. ADMIN. CODE § 328.57(c)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to retain all manifests, work orders and invoices showing the collection and disposition of all used or scrap tires and tire pieces, in violation of TEX. HEALTH & SAFETY CODE § 361.112(g) and 30 TEX. ADMIN. CODE § 328.57(d).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers or lockable containers, in violation of TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE § 328.60(a).
5. As evidenced by Findings of Fact Nos. 3 through 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).
6. 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.
7. 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.
8. An administrative penalty in the amount of twelve thousand thirty-seven dollars (\$12,037.00) is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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 twelve thousand thirty-seven dollars (\$12,037.00) 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: Bobby Krout; Docket No. 2020-0388-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:

- i. Cease transporting scrap tires until authorization is obtained;
    - ii. Cease storing scrap tires until authorization is obtained.
  - b. Within 30 days after the effective date of this Order:
    - i. Obtain a scrap tire transporter registration in accordance with 30 TEX. ADMIN. CODE § 328.57; and
    - ii. Begin retaining transporter records in accordance with 30 TEX. ADMIN. CODE § 328.57; or
    - iii. In lieu of Ordering Provision Nos. 3.b.i. and 3.b.ii., cease transporting scrap tires.
  - c. Additionally, within 30 days after the effective date of this Order:
    - i. Obtain a scrap tire storage site registration in accordance with 30 TEX. ADMIN. CODE § 328.60; or
    - ii. In lieu of Ordering Provision No. 3.c.i., reduce the number of used and scrap tires to less than 500 on the ground or less than 2,000 in lockable containers.
  - d. Within 45 days after the effective date of the Commission Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Corrective Action Ordering Provision Nos. 3.a.i. and 3.a.ii; 3.b.i. and 3.b.ii., or 3.b.iii.; and 3.c.i. or 3.c.ii.. 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 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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.
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.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

\_\_\_\_\_  
Date



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF BENJAMIN PENCE

"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 Bobby Krout' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 6, 2021.

The EDPRP was mailed to Respondent's last known address on July 6, 2021, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on July 9, 2021.

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 Benjamin Lawrence Pence, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,

State of Texas,

on the 12th day of December, 2022

*Benjamin Pence*

\_\_\_\_\_  
Declarant