# **TCEQ Interoffice Memorandum**

To: Mary Smith, General Counsel

Dinniah Tadema, Assistant General Counsel

**Thru:**  $\mathcal{JSR}$  Jess Robinson, Senior Attorney Litigation Division

From: 8LP Benjamin Pence, Staff Attorney

Litigation Division

January 31, 2023 Date:

**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.

Stephanie McCurley, Enforcement Division cc: 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 <u>and 4through 6</u>, 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:

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- 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

# EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59059 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

# EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 59059 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



\$4,012



**PAYABLE PENALTY** 

# Penalty Calculation Worksheet (PCW)

CHIP ON MENTAL ON	Policy R	evision 4 (April 2014	)			•	PCW Re	evision March 26, 2014
DATES	Assigned	18-Nov-2019						
	PCW		Screening 7-Fe	eb-2020	EPA Due			
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Por	Respondent J. Ent. Ref. No.							
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		2020-0388-MSW	′-E		_	Order Type		
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	Multi-Media				Ent	f. Coordinator	Enforcement Te	am 7
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	Notes	Defe	rral not offered for	non-exped	dited settleme	ent.		

**Screening Date** 7-Feb-2020 Respondent Bobby Krout

**Case ID No.** 59059

Reg. Ent. Reference No. RN110651510

>>

**Media** Waste Tires

Enf. Coordinator John Fennell

**PCW** 

Policy Revision 4 (April 2014) PCW Revision March 26, 2014

# Compliance History Worksheet

Component	ory Site Enhancement (Subtotal 2)  Number of	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	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	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
and Consent Decrees	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 (number of counts)		0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
Addits	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%
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
<b>5</b> t 5.	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)

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3)

>> 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)

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%

Respondent Bobby Krout Case ID No. 59059 Reg. Ent. Reference No. RN110631510 Media Waste Tires Enf. Coordinator John Fennell Violation Number 1  Rule Cite(s)  30 Tex. Admin. Code § 328.57(c)(1)  Violation Description  Falled to register as a scrap tire transporter prior to transporting scrap tires.  Base Penalty  \$25,000  >> Environmental, Property and Human Health Matrix Harm Release Major Moderate Minor Actual Potential Percent 0.0%  >> Programmatic Matrix Notes  Natrix Notes  100% of the rule requirement was not met.  **Adjustment**  \$23,750  \$1,250  Violation Events  Number of Violation Events    Adjustment**   \$23,750			ening Date			Docl	ket No. 2020-0388-MSW-E		PCW
Reg. Ent. Reference No. RNII (0531510 Media Waste Tires Enf. Coordinator John Fennell Violation Number Rule Cite(s)    Violation Description   Failed to register as a scrap tire transporter prior to transporting scrap tires.    Sase Penalty   \$25,000									
Media waste Tires  Enf. Coordinator John Fennell  Violation Number  Rule Cite(s)  Violation Description  Falled to register as a scrap tire transporter prior to transporting scrap tires.  Base Penalty  \$25,000  >> Environmental, Property and Human Health Matrix Harm Release Major Moderate Minor OR Actual Potential Potential Percent 5.0%  >> Programmatic Matrix Falsification Major Moderate Minor Notes  100% of the rule requirement was not met.  Violation Events  Number of Violation Events  Adjustment \$23,750  \$1,250  Violation Events  Two quarterly events are recommended from the September 30, 2019 investigation date to the February 7, 2020 Screening date.  Good Faith Efforts to Comply Ones Proceeding to the Editor Processing Complete Comple	Rea.							PCW R	evision March 26, 2014
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quarterly semiannual annual single event  Two quarterly events are recommended from the September 30, 2019 investigation date to the February 7, 2020 screening date.  Good Faith Efforts to Comply  O.0%  Before NOE/NOV to EDPRP/Settlement Offer  Violation Base Penalty \$2,500  \$2,500  Reduction 40  \$0,000  \$0,000  \$0,0				,					
semiannual annual single event  Two quarterly events are recommended from the September 30, 2019 investigation date to the February 7, 2020 screening date.  Good Faith Efforts to Comply  0.0%  Before NOE/NOV to EDPRP/Settlement Offer					Y		Violation Base	Penalty	\$2,500
Two quarterly events are recommended from the September 30, 2019 investigation date to the February 7, 2020 screening date.  Good Faith Efforts to Comply  O.0%  Before NOE/NOV to EDPRP/Settlement Offer				· · · · · · · · · · · · · · · · · · ·	^		Violation Base	· charcy	42,000
Two quarterly events are recommended from the September 30, 2019 investigation date to the February 7, 2020 screening date.  Good Faith Efforts to Comply  O.0%  Before NOE/NOV to EDPRP/Settlement Offer  \$0									
February 7, 2020 screening date.  Good Faith Efforts to Comply  O.0%  Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer  \$0				single event					
February 7, 2020 screening date.  Good Faith Efforts to Comply  O.0%  Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer  \$0			Two guarter	v events are reco	mmended fro	om the Septer	mber 30, 2019 investigation date	e to the	
Before NOE/NOV to EDPRP/Settlement Offer				,					
Before NOE/NOV to EDPRP/Settlement Offer			_						
	Good F	aith Effo	orts to Com			NOE/NOV to EDI		eduction [	\$0
LXU dOI UIII ai y				Extraordinary					
Ordinary				·    =					
N/A x				N/A	Х				
				Notes	The Responde		_		
Notes The Respondent does not meet the good faith criteria for						uns v	iolation.		
Notes The Respondent does not meet the good faith criteria for this violation.							Violation 9	Subtotal	\$2,500
this violation.	Econo:	nie Pers	fit (ED) for	this vislatia	_			_	, ,
this violation.  Violation Subtotal \$2,500	Econor	піс вене		_	11		_	_	
Violation Subtotal \$2,500  Economic Benefit (EB) for this violation Statutory Limit Test			Estimate	ed EB Amount		\$8	<b>Violation Final Pena</b>	ity Total	\$2,675
Violation Subtotal \$2,500  Economic Benefit (EB) for this violation Statutory Limit Test					This viola	ition Final As	ssessed Penalty (adjusted fo	r limits)	\$2,675
				Notes	The Responde		_		
Notes						CIIIS VI			
Notes							Violation 9	Subtotal	\$2,500
this violation.			CL (ED) C	Alice and the second				_	1 /- /-
this violation.  Violation Subtotal \$2,500	LCUIIUI	me bene		_			_	_	
Violation Subtotal \$2,500  Economic Benefit (EB) for this violation Statutory Limit Test			Estimate	ea EB Amount		\$8	Violation Final Pena	ity I otal	\$2,6/5
Violation Subtotal \$2,500  Economic Benefit (EB) for this violation Statutory Limit Test  Estimated EB Amount \$8 Violation Final Penalty Total \$2,675					This viola	ition Final As	ssessed Penalty (adjusted fo	r limits)	\$2,675

	E	conomic	Benefit	Wo	rksheet		
Respondent	Bobby Krout						
Case ID No.	•						
Reg. Ent. Reference No.							_
	Waste Tires					Percent Interest	Years of
Violation No.	1					i di cont ziitai ast	Depreciation
						5.0	15
	Itom Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
	Item Cost	Date Required	rillai Date	115	Interest Saveu	Costs Saveu	EB Allioulit
Item Description							
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		investigation (	date, and the Fi	nal Dat	e is the estimated	<u> </u>	
Avoided Costs	ANNU	ALIZE avoided c	osts before en	tering	item (except for	one-time avoide	d 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

	Screening Date	7-Feb-2020	<b>Docket No.</b> 2020-0388-MSW-E	PCW
	Respondent		Policy	Revision 4 (April 2014)
Daa	Case ID No. Ent. Reference No.		PCW Re	evision March 26, 2014
Reg.		Waste Tires		
	Enf. Coordinator			
	Violation Number	2		
	Rule Cite(s)	30 Tex. Adm	n. Code § 328.57(d) and Tex. Health & Safety Code § 361.112(g)	
	<b>Violation Description</b>	Failed to retai	all manifests, work orders and invoices showing the collection and disposition of all used or scrap tires and tire pieces.	
			disposition of all asea of scrap tires and tire pieces.	
			Base Penalty	\$25,000
>> En	vironmental, Proper	ty and Hum	an Haalth Matrix	
LII	vironinientai, Propei	ty and muni	Harm	
00	Release	Major	Moderate Minor	
OR	Actual Potential		Percent 0.0%	
	rotential		1 Credit 0.070	
>>Pro	grammatic Matrix			
	Falsification	Major x	Moderate Minor Percent 5.0%	
			Percent 5.070	
	Mahuiu			
	Matrix Notes	10	0% of the rule requirement was not met.	
			Adjustment \$23,750	
				\$1,250
			L	\$1,250
Violati	on Events			
	Number of \	/iolation Events	1 130 Number of violation days	
			1 150 Italiasi of Holdan days	
		daily		
		weekly monthly		
		quarterly	Violation Base Penalty	\$1,250
		semiannual	•	
		annual		
		single event	X	
			One single event is recommended.	
				+0
Good I	aith Efforts to Com		0.0% Reduction fore NOE/NOV NOE/NOV to EDPRP/Settlement Offer	\$0
		Extraordinary		
		Ordinary		
		N/A	x	
		Notes	The Respondent does not meet the good faith criteria for	
		140163	this violation.	
		L	Violation Subtotal	\$1,250
_				Ψ1,230
Econo	mic Benefit (EB) for	this violatio	n Statutory Limit Test	
	Estimate	ed EB Amount	\$11 Violation Final Penalty Total	\$1,338
			This violation Final Assessed Penalty (adjusted for limits)	\$1,338
			· · · · · · · · · · · · · · · · · · ·	

	F	conomic	Renefit	Wo	rksheet		
Dosnandant			Denenie	110	RSHECE		
Respondent	•						
Case ID No.							
Reg. Ent. Reference No.							
Media	Waste Tires					Percent Interest	Years of
Violation No.	2					reiteilt Interest	Depreciation
						5.0	15
	Thom Cook	Data Bassinad	Final Data	V	Interest Saved	Costs Saved	EB Amount
	Item Cost	Date Required	Final Date	Yrs	Interest Saveu	Costs Saveu	EB Amount
Item Description							
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  Avoided Costs		investigation	date, and the Fi	nal Dat	e is the estimated	). The Date Require compliance date.	
Disposal	AITITO	TELET AVOIDED C	osts before en	0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0 \$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0 \$0
Supplies/Equipment				0.00	\$0	\$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			TOTAL		\$11

\$8,025



**PAYABLE PENALTY** 

# Penalty Calculation Worksheet (PCW)

THE THOUSENTAL OU	Policy R	Revision 4 (April 2014	)		_	PCW Re	evision March 26, 2014
DATES	Assigned	18-Nov-2019					
	PCW	22-May-2020	Screening 7-Feb-20	EPA Due			
RESPO	NDENT/FACILI	TY INFORMATI	ON				
Pos	Respondent g. Ent. Ref. No.	Bobby Krout					
Facilit	ty/Site Region	4-Dallas/Fort Wo	orth	Major/	Minor Source	Major	
i aciiii	ty/ Site Region	T-Dallas/1 Of C WC	JI CII	14ајог /	Millor Source	Major	
CASE II	NFORMATION						
En	f./Case ID No.	59059		No.	of Violations	1	
		2020-0388-MSW	/-E		Order Type		
Med	lia Program(s)	Waste Tires			nt/Non-Profit		
	Multi-Media			Enf	. Coordinator		7
A al	nin Danaltı # I	imait Mimima	d0 Massimoum	#3E 000	EC's leam	Enforcement Te	eam /
Adn	nin. Penaity \$ i	Limit Minimum	\$0 Maximun	n \$25,000			
			Danalti Cala		·		
			Penalty Calc	ulation Sect	ion		
<b>TOTAL</b>	L BASE PENA	LTY (Sum of	violation base pe	nalties)		Subtotal 1	\$7,500
		/	<b></b>			_	
ADJUS	STMENTS (+	/-) TO SUBT	<b>DTAL 1</b> g the Total Base Penalty (Subt	ental 1) by the indicated	narcantaga		
	Compliance Hi			<b>0%</b> Adjustment		tals 2, 3, & 7	\$525
	compliance in						452.
	Notes	Enhancement	for one NOV with same		and one NOV		
			with dissimilar v	lolations.			
	Culpability	No	•	00/ 5-6		Subtotal 4	÷1
	Culpability	No	U.	0% Enhancement		Subtotal 4	\$(
	Notes	The Re	spondent does not mee	t the culpability cri	teria.		
	.10100						
						_	
	Good Faith Eff	ort to Comply T	otal Adjustments			Subtotal 5	\$(
	Economic Bene	afit	0	<b>0%</b> Enhancement*		Subtotal 6	\$(
	Leonomic Ben	Total EB Amounts		Capped at the Total EB s	\$ Amount	Subtotal o	Ψ\
	Estimated	Cost of Compliance	\$10,000				
	OF CUIDTOTAL						+0.00
SUM C	OF SUBTOTAL	LS 1-/			F	inal Subtotal	\$8,02
OTHE	D EACTORS /	S HISTICE N	1AY REQUIRE	0.00/		A 45	\$(
		Subtotal by the indi		0.0%		Adjustment	Ψ
						1	
	Notes						
	'				Final Per	nalty Amount	\$8,02
STATU	JTORY LIMIT	T ADJUSTMEN	NT		Final Asse	ssed Penalty	\$8,02
DEFER				0.0%	Reduction	Adjustment	\$(
Reduces t	ne Final Assessed Pe	nalty by the indicate	d percentage.			7	
	Notes	Dofo	rral not offered for non-	evnedited settleme	nt		
	Notes	Dele	irai not onereu ioi non-	expedited Settleffle	eric.		

**Docket No.** 2020-0388-MSW-E

**PCW** 

Policy Revision 4 (April 2014) PCW Revision March 26, 2014

Respondent Bobby Krout **Case ID No.** 59059

Reg. Ent. Reference No. RN110651510 **Media** Waste Tires

Fnf. Coordinator John Fennell

Enf. Coordinator John Fennell									
Compliance History Worksheet									
>> Co		ory <i>Sit</i> e Enhancement (Subtotal 2)  Number of	Number	Adjust.					
	NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%					
		Other written NOVs	1	2%					
		Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%					
	Orders	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	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%					
	and Consent Decrees	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	0	0%						
	Emissions	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 (number of audits for which notices were submitted)	0	0%					
	Addits	0	0%						
		Environmental management systems in place for one year or more	No	0%					
	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%					
	<b>5</b> t. 15.	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 Per	centage (Sub	ototal 7) 0%					
>> Co	ompliance Hist	ory Summary							
	Compliance History Notes	Enhancement for one NOV with same/similar violations and one NOV with dissim	ilar violations.						
		Total Compliance History Adjustment Percentage (S	Subtotals 2,	<b>3, &amp; 7)</b> 7%					
>> Fina	al Compliance	History Adjustment							
		Final Adjustment Percenta	age *capped	at 100% 7%					

		ening Date			Docl	ket No. 2020-0388-MSW-	 E	PCW
		espondent					•	Revision 4 (April 2014)
Pen		ase ID No. erence No.					PCW R	Revision March 26, 2014
iteg.	Liit. Kei		Waste Tires					
		oordinator						
	Viola	ntion Number	1					
		Rule Cite(s)	30 Tex. Admin.	Code § 328	3.60(a) and Te	ex. Health & Safety Code § 3	61.112(a)	
	Violatio	n Description	used or scrap tire	s on the gro pecifically, a	ound or 2,000 approximately	gistration prior to storing mo used or scrap tires in trailers 1,310 scrap tires were store age site registration.	s or lockable	
						Ва	ase Penalty	\$25,000
>> Env	vironme	ntal, Proper	ty and Humai		Matrix			
		Release	Major	<b>Harm</b> Moderate	Minor			
OR		Actual	Major	rioderate	1111101			
		Potential				Percent 0.0%	6	
>>Pro	aramma	tic Matrix						
77110	gramma	Falsification	Major	Moderate	Minor			
			X			Percent 15.0%	6	
	Matrix Notes		100%	of the rule	requirement	was not met.		
						Adjustment	\$21,250	
						Aujustinent	\$21,250	
								\$3,750
Violatio	on Event	:s						
		Number of \	/iolation Events	2		130 Number of violatio	n days	
			daily weekly monthly quarterly semiannual annual single event	x		Violation Ba	ıse Penalty	\$7,500
		Two quarterl			om the Septen 2020 screening	nber 30, 2019 investigation on grant date.	date to the	
Good F	aith Effo	orts to Com		0.0%			Reduction	\$0
			Before Extraordinary	re NOE/NOV	NOE/NOV to EDF	PRP/Settlement Offer		
			Ordinary					
			N/A	Х			_	
			Notes	ne Responde		neet the good faith criteria fo iolation.	r	
						Violatio	on Subtotal	\$7,500
Econor	nic Bene	fit (EB) for	this violation			Statutory Lim	it Test	
		Estimate	ed EB Amount		\$821	Violation Final Pe	nalty Total	\$8,025
				This wist-				
				inis viola	ition Final As	ssessed Penalty (adjusted	TOT IIMITS)	\$8,025

	E	conomic	Benefit	Wo	rksheet		
Respondent	Bobby Krout						
Case ID No.	59059						
Reg. Ent. Reference No.	RN110651510						
	Waste Tires						Years of
Violation No.						Percent Interest	Depreciation
Violation No.	_					5.0	15
	Thom: Co. at	Data Danisland	Final Date	V	Interest Saved	Costs Saved	EB Amount
	Item Cost	Date Required	Finai Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
Delayed Costs		1		1			
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction Land				0.00	\$0 \$0	\$0 n/a	\$0 \$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)	4 = 0,000			0.00	\$0	n/a	\$0
Notes for DELAYED costs		investigation	date, and the Fi	nal Dat	e is the estimated	·	
Avoided Costs	ANNU	ALIZE avoided c	osts before er			one-time avoide	
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 \$0	\$0 \$0
Financial Assurance ONE-TIME avoided costs				0.00	\$0 \$0	\$0	\$0 \$0
Other (as needed)				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Notes for AVOIDED costs				0.00	<b>. . . . .</b>	1 \$0	\$0
Approx. Cost of Compliance		\$10,000			TOTAL		\$821

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, CN605617463, Bobby Krout Classification: SATISFACTORY Rating: 24.00

or Owner/Operator:

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 MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER

R04110651510 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).

### 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

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

<sup>\*</sup> No violations documented during this investigation

<sup>\*\*</sup>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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
BOBBY KROUT;	§	
RN110651510	§	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 TCEO pursuant to Tex. Health & Safety Code ch. 361 and the rules of the TCEO.

- 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.

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QU	ALITY	
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	Cou	County,	
State of Texas,				
on the <u>12th</u>	day of	December	, 2022	
Bernjamin Pence				
Declarant				