

Diane Murray and John Murray

RN110781978

Docket No. 2020-0688-MLM-E

Order Type:

Default Order (SOAH evidentiary hearing)

Media:

MLM: MSW

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

3420 Avenue D, Santa Fe, Galveston County (the "Site")

Type of Operation:

unauthorized municipal solid waste ("MSW")

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:	July 22, 2022
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$2,638
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Total Paid to General Revenue:	\$0
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Total Due to General Revenue:	\$2,638
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Compliance History Classifications:

Person/CN - Satisfactory (Both Respondents)
Site/RN - Satisfactory

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

Complaint Date(s):	May 28, 2019; January 9, 2020
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Complaint Information:	Complainant is concerned about outdoor burning activities in the area. Complainant stated that smoke from a nearby fire is coming onto their property and into their house.
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Date(s) of Investigation:	January 9, 2020 through January 24, 2020
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Date(s) of NOV(s):	July 26, 2019
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Date(s) of NOE(s):	March 19, 2020
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Diane Murray and John Murray

RN110781978

Docket No. 2020-0688-MLM-E

Violation Information

1. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201].
2. Caused, suffered, allowed, or permitted the unauthorized collection, storage, processing, or disposal of MSW. [30 TEX. ADMIN. CODE § 330.15(a) and (c)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

1. The unauthorized burning ceased on January 9, 2020; and
2. The unauthorized MSW was removed as of January 24, 2020.

Technical Requirements:

None

Litigation Information**Date Petition(s) Filed:** March 23, 2021**Date Green Card(s) Signed:** April 9, 2021**Date Answer(s) Filed:** April 26, 2021**SOAH Referral Date:** June 22, 2021**Hearing Date(s):**

Preliminary hearing: September 2, 2021

Evidentiary hearing: May 3, 2022 (Defaulted)

Contact Information**TCEQ Attorneys:** David Keagle, Litigation Division, (512) 239-3400
Amanda Pesonen, Public Interest Counsel, (512) 239-6363**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575**TCEQ Enforcement Coordinator:** Katelyn Dacy, Enforcement Division, (512) 239-4593**TCEQ Regional Contact:** Joseph Doby, Houston Regional Office, (713) 767-3500**Respondent Contact:** Diane Murray and John Murray, 3420 Avenue D, Santa Fe, Texas 77510**Respondent's Attorney:** N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	14-May-2020	Screening	14-May-2020	EPA Due	
	PCW	26-Aug-2020				

RESPONDENT/FACILITY INFORMATION	
Respondent	Diane Murray and John Murray
Reg. Ent. Ref. No.	RN110781978
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	59344	No. of Violations	2
Docket No.	2020-0688-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Margarita Dennis
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Adjustment	Subtotals 2, 3, & 7	\$125
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Notes	Enhancement for one NOV with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondents do not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$13	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$26	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.5%	Adjustment	\$13
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with Violation No. 1.
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Final Penalty Amount	\$2,638
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,638
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DEFERRAL	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.
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PAYABLE PENALTY	\$2,638
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Screening Date 14-May-2020

Docket No. 2020-0688-MLM-E

PCW

Respondent Diane Murray and John Murray

Policy Revision 4 (April 2014)

Case ID No. 59344

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110781978

Media Air

Enf. Coordinator Margarita Dennis

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> 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.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 14-May-2020

Docket No. 2020-0688-MLM-E

PCW

Respondent Diane Murray and John Murray

Policy Revision 4 (April 2014)

Case ID No. 59344

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110781978

Media Air

Enf. Coordinator Margarita Dennis

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)

Violation Description Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, on January 9, 2020, TCEQ staff documented that approximately one cubic yard of municipal solid waste ("MSW") consisting of plastic containers, aluminum cans, fiberglass insulation, miscellaneous metal, tree branches, and household waste were burned at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$1,319

This violation Final Assessed Penalty (adjusted for limits) \$1,319

Economic Benefit Worksheet

Respondent Diane Murray and John Murray
Case ID No. 59344
Reg. Ent. Reference No. RN110781978
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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	\$13	8-Jan-2020	9-Jan-2020	0.00	\$0	\$13	\$13
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to dispose of approximately one cubic yard of MSW at an authorized facility rather than burning it. Date Required is one day prior to the investigation date. Final Date is the date of compliance.

Approx. Cost of Compliance

\$13

TOTAL

\$13

Screening Date 14-May-2020
Respondent Diane Murray and John Murray
Case ID No. 59344
Reg. Ent. Reference No. RN110781978
Media Air
Enf. Coordinator Margarita Dennis

Docket No. 2020-0688-MLM-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description

Caused, suffered, allowed, or permitted the unauthorized collection, storage, processing, or disposal of MSW. Specifically, approximately one cubic yard of MSW consisting of plastic containers, aluminum cans, fiberglass insulation, miscellaneous metal, tree branches, and household waste were disposed on the ground at the Site.

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" value="x"/>	<input type="text" value="5.0%"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

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

Matrix Notes

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

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" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the January 9, 2020 investigation date to the January 24, 2020 compliance date.

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 type="text" value="x"/>	<input type="text"/>

Notes

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 Diane Murray and John Murray
Case ID No. 59344
Reg. Ent. Reference No. RN110781978
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$13	9-Jan-2020	24-Jan-2020	0.04	\$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 delayed cost to remove all MSW from the Site and to dispose of the MSW at a facility authorized to receive the waste. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$13

TOTAL

\$0

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Compliance History Report

Compliance History Report for CN605662402, RN110781978, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN605662402, Murray, Diane **Classification:** SATISFACTORY **Rating:** 8.00

Regulated Entity: RN110781978, 3420 Avenue D Santa FE **Classification:** SATISFACTORY **Rating:** 8.00

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 3420 Avenue D Santa Fe, Texas 77510-8046, Galveston County

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
AIR QUALITY NON PERMITTED ID NUMBER R12110781978

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

Date Compliance History Report Prepared: May 14, 2020

Agency Decision Requiring Compliance History: Enforcement

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

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Margarita Dennis **Phone:** (817) 588-5892

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
 N/A

B. Criminal convictions:
 N/A

C. Chronic excessive emissions events:
 N/A

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

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

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

- 1 Date: 07/26/2019 (1570550)
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THSC Chapter 382 382.085(b)
 - Description: Failure to comply with 30 TAC 111.201 General Prohibition on Outdoor Burning by not meeting one of the exceptions. [Category B13]
 - Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)
5C THSC Chapter 382 382.085(b)

Description: Failure to follow 30 TAC 330.15(a) General Prohibition on Municipal Solid Waste (MSW). [Category B18.e.7]

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

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Compliance History Report

Compliance History Report for CN605779453, RN110781978, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN605779453, Murray, John **Classification:** SATISFACTORY **Rating:** 8.00

Regulated Entity: RN110781978, 3420 Avenue D Santa Fe **Classification:** SATISFACTORY **Rating:** 8.00

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 3420 Avenue D Santa Fe, Texas 77510-8046, Galveston County

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
AIR QUALITY NON PERMITTED ID NUMBER R12110781978

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

Date Compliance History Report Prepared: May 14, 2020

Agency Decision Requiring Compliance History: Enforcement

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

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Margarita Dennis **Phone:** (817) 588-5892

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

- 1 Date: 07/26/2019 (1570550)
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THSC Chapter 382 382.085(b)
 - Description: Failure to comply with 30 TAC 111.201 General Prohibition on Outdoor Burning by not meeting one of the exceptions. [Category B13]
 - Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)
5C THSC Chapter 382 382.085(b)

Description: Failure to follow 30 TAC 330.15(a) General Prohibition on Municipal Solid Waste (MSW). [Category B18.e.7]

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DIANE MURRAY AND JOHN
MURRAY;
RN110781978

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§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2020-0688-MLM-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 chs. 361 and 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are Diane Murray and John Murray ("Respondents").

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

FINDINGS OF FACT

1. Respondents own an unauthorized municipal solid waste ("MSW") site located at 3420 Avenue D in/near Santa Fe, Galveston County, Texas (the "Site"). The Site contains and/or involves the management of MSW, as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on January 9, 2020 through January 24, 2020, an investigator documented that Respondents:
 - a. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, on January 9, 2020, TCEQ staff documented that approximately one cubic yard of MSW consisting of plastic containers, aluminum cans, fiberglass insulation, miscellaneous metal, tree branches, and household waste were burned at the Site; and
 - b. Caused, suffered, allowed, or permitted the unauthorized collection, storage, processing, or disposal of MSW. Specifically, approximately one cubic yard of MSW consisting of plastic containers, aluminum cans, fiberglass insulation, miscellaneous metal, tree branches, and household waste were disposed on the ground at the Site.
3. The Executive Director recognizes that Respondents implemented the following corrective measures at the Site:
 - a. The unauthorized burning ceased on January 9, 2020; and
 - b. The unauthorized MSW was removed as of January 24, 2020.
4. 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 Diane Murray and John Murray" (the "EDPRP") in the TCEQ Chief Clerk's office on March 23, 2021.
5. Respondents filed an answer requesting a hearing on April 26, 2021, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on June 22, 2021.

6. On January 10, 2022, the Administrative Law Judge (“ALJ”) issued Order No. 4, which set the evidentiary hearing for May 3, 2022. The SOAH docket clerk mailed a copy of Order No. 4 to Respondents at their last known address via first class mail, postage pre-paid.
7. On May 3, 2022, the ALJ convened the evidentiary hearing. Respondents failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondents were served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
8. On May 5, 2022, the ALJ entered a finding that Respondents were served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 5 so that TCEQ may dispose of this case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE chs. 361 and 382, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondents caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201.
3. As evidenced by Finding of Fact No. 2.b., Respondents caused, suffered, allowed, or permitted the unauthorized collection, storage, processing, or disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c).
4. As evidenced by Finding of Fact No. 5, Respondents filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(d) and 30 TEX. ADMIN. CODE § 70.109.
5. As evidenced by Finding of Fact No. 6, each Respondent was provided proper notice of the evidentiary hearing in accordance with TEX. GOV’T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.105(b), 155.401, and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
6. As evidenced by Findings of Fact Nos. 7 and 8, Respondents failed to appear for the evidentiary hearing, and pursuant to TEX. GOV’T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(e), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents 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 two thousand six hundred thirty-eight dollars (\$2,638.00) 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. Respondents are assessed an administrative penalty in the amount of two thousand six hundred thirty-eight dollars (\$2,638.00) 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: Diane Murray and John Murray; Docket No. 2020-0688-MLM-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. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon each Respondent.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
7. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF DAVID C. KEAGLE

"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 Diane Murray and John Murray' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 23, 2021.

Respondents filed an answer requesting a hearing on April 26, 2021, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on June 22, 2021. On January 10, 2022, the ALJ issued Order No. 4, which set the evidentiary hearing for May 3, 2022. The SOAH docket clerk mailed a copy of Order No. 4 to Respondents at their last known address via first class mail, postage pre-paid.

Respondents failed to appear at the hearing on May 3, 2022. At that hearing, I requested that the ALJ enter a finding that Respondents were served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(e), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 5, issued on May 5, 2022, (effective May 20, 2022) so that TCEQ may dispose of this case on a default basis."

"My name is David C. Keagle 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 this Twenty-Fifth day of June, 2022

A handwritten signature in blue ink that reads "David C. Keagle".

Declarant