

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ANN RIDLEHUBER;
RN102319829

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2020-0875-IHW-E

On AUG 24 2022, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26, 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 Ann Ridlehuber ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a former metal plating operation located at 718 Abbott Avenue in Hillsboro, Hill County, Texas (the "Facility"). The Facility involves or involved the management of industrial solid waste ("ISW") and hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on May 13, 2020, an investigator documented that Respondent:
 - a. Caused, suffered, allowed, or permitted the unauthorized disposal of ISW into or adjacent to any water in the state. Specifically, 2,500 gallons of coating and plating waste were disposed of at the Facility and leaked through a metal wall onto the driveway;
 - b. Failed to conduct hazardous waste determinations and waste classifications. Specifically, hazardous waste determinations and waste classifications were not conducted for coating and plating waste;
 - c. Failed to keep hazardous waste containers closed, except when adding or removing waste. Specifically, open hazardous waste containers were observed at the Facility; and
 - d. Failed to comply with the 180-day accumulation time limitation for the storage of industrial hazardous waste ("IHW"). Specifically, two hazardous waste storage bags containing approximately 5 cubic yards of waste labeled with an accumulation start date of October 21, 2011, were located at the Facility.
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 Ann Ridlehuber" (the "EDPRP") in the TCEQ Chief Clerk's office on June 25, 2021.
4. The Executive Director filed the "Executive Director's First Amended 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 Ann Ridlehuber" (the "EDFARP") in the TCEQ Chief Clerk's office on August 19, 2021.

5. The Executive Director refiled the EDFARP on May 20, 2022.
6. By letter dated May 20, 2022, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDFARP on June 14, 2022.
7. More than 20 days have elapsed since Respondent received notice of the EDFARP. 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. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent caused, suffered, allowed, or permitted the unauthorized disposal of ISW into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 335.4(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to conduct hazardous waste determinations and waste classifications, in violation of 40 C.F.R. § 262.11 and 30 TEX. ADMIN. CODE §§ 335.62, 335.503(a), and 335.504.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to keep hazardous waste containers closed, except when adding or removing waste, in violation of 40 C.F.R. § 265.173(a) and 30 TEX. ADMIN. CODE § 335.69(d)(1).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to comply with the 180-day accumulation time limitation for the storage of IHW, in violation of 40 C.F.R. § 262.16(b) and 30 TEX. ADMIN. CODE § 335.69(f).
6. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
7. 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.
8. 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.
9. An administrative penalty in the amount of twenty-six thousand two hundred fifty dollars (\$26,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. 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 twenty-six thousand two hundred fifty dollars (\$26,250.00) 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: Ann Ridlehuber; Docket No. 2020-0875-IHW-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. Within 30 days after the effective date of this Order:
 - i. Securely close all containers containing hazardous waste, in accordance with 40 C.F.R. § 265.173(a) and 30 TEX. ADMIN. CODE § 335.69(d)(1);
 - ii. Conduct waste determinations and waste classifications on all waste streams generated at the Facility, in accordance with 40 C.F.R. § 262.11 and 30 TEX. ADMIN. CODE §§ 335.62, 335.503, and 335.504; and
 - iii. Remove all waste from the Facility, including storage bags of IHW and coating and plating waste, and dispose of it at an authorized facility;
 - b. Within 60 days after the effective date of this Order, conduct an investigation to determine whether response actions are necessary under the Texas Risk Reduction Program ("TRRP"), 30 TEX. ADMIN. CODE ch. 350, and submit the investigation results to the Executive Director, via the Order Compliance Team, to the address listed in Ordering Provision No. 3.d. The investigation results shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent and shall include the certification language found in Ordering Provision No. 3.d;
 - c. Within 105 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.d, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.iii.;
 - d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals

immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The written certifications 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:

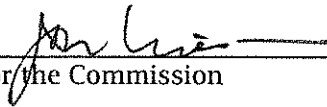
Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

- e. Respond completely and adequately, as determined by TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by TCEQ;
 - f. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, by the deadline prescribed by the Executive Director, submit an Affected Property Assessment Report (“APAR”), pursuant to 30 TEX. ADMIN. CODE § 350.91, to Executive Director, in accordance with Ordering Provision No. 3.d., and to any additional addresses as directed by the Executive Director;
 - g. If the Executive Director determines that the APAR indicates that additional response actions are necessary, Respondent shall comply with and perform, by the deadline prescribed by the Executive Director, all applicable requirements of TRRP, which may include plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and institutional controls under Subchapter F (30 TEX. ADMIN. CODE § 350.111); and
 - h. If the Executive Director determines that the APAR indicates that additional response actions are necessary, Respondent shall submit, by the deadline prescribed by the Executive Director, written certification, in accordance with Ordering Provision No. 3.d., to demonstrate compliance with Ordering Provision No. 3.g.
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. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
 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 Order Compliance Team 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 QUALITY



For the Commission

8/25/22

Date

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 29, 2022

CERTIFIED MAIL

Ann Ridlehuber
213 Highway Contract Route 1367
Hillsboro, Texas 76645

RE: Ann Ridlehuber
TCEQ Docket No. 2020-0875-IHW-E
Default Order Assessing Administrative Penalties and Requiring Certain Actions

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Texas Commission on Environmental Quality's Enforcement Division at (512) 239-2545 or the Litigation Division at (512) 239-3400. If there are questions pertaining to the mailing of the order, then please contact Amy Davis of the Office of the Chief Clerk at (512) 239-3352.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis".

Laurie Gharis
Chief Clerk

LG/ad

Enclosure

cc: David Mann, Regional Contact, TCEQ Regional Office
Garrett Arthur, OPIC Attorney, TCEQ Office of the Public Interest Counsel
Stephanie McCurley, Enforcement Coordinator, TCEQ Enforcement Division
Taylor Pearson, Staff Attorney, TCEQ Litigation Division

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PS Form 3800, April 2015 PSN 7530-02-000-9047

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