

## **TCEQ Interoffice Memorandum**

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**To:** Mary Smith, General Counsel  
Colleen Ford, Assistant General Counsel

**Thru:** Anna Treadwell, Senior Attorney  
*AMT* Litigation Division

**From:** *CK* Casey Kurnath, Staff Attorney  
Litigation Division

**Date:** July 30, 2025

**Subject:** **Backup Revision**  
**August 6, 2025 Commission Agenda**  
Item No. 14 Al Espree  
Docket No. 2020-1586-MLM-E

Enclosed please find the following:

**Page 1 of the ES:**

Complaint information was revised.

Respondent Contact:

Al Espree  
1201 4th Street  
Nome, Texas 77629

Please do not hesitate to call Casey Kurnath at (512) 239-5932 if you have any questions regarding this matter.

cc: Stephanie McCurley, Enforcement Division  
David King, Beaumont Regional Office  
Gill Valls, Office of the General Counsel  
Michael Parrish, Enforcement Division  
Leslie Gann, Enforcement Division  
Stuart Beckley, Enforcement Division

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60177

**Al Espree**  
**RN110882388**  
**Docket No. 2020-1586-MLM-E**

**Order Type:**  
Default Order

**Media:**  
MSW and AIR

**Small Business:**  
Yes

**Location Where Violations Occurred:**  
1201 4th Street, Nome, Jefferson County (the "Site")

**Type of Operation:**  
an unauthorized municipal solid waste ("MSW") 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:** June 20, 2025

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$2,981

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

**Total Due to General Revenue:** \$2,981

**Compliance History Classifications:**

Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date:** October 16, 2019

*Complaint Information:* Complaint alleges that respondent has a travel trailer on the property discharging raw sewage into a roadside ditch.

**Dates of Investigation:** October 24, 2019, December 20, 2019, February 19, 2020, and August 20, 2020

**Date of NOV:** February 29, 2020

**Date of NOE:** October 23, 2020

## EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60177

Page 1 of 2

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

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Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date:** October 16, 2019

*Complaint Information:* Complaint alleges that respondent has refrigerators, stoves, washers/dryers, generators, etc. on his property.

**Dates of Investigation:** October 24, 2019, December 20, 2019, February 19, 2020, and August 20, 2020

**Date of NOV:** February 29, 2020

**Date of NOE:** October 23, 2020

**Al Espree**  
**RN110882388**  
**Docket No. 2020-1586-MLM-E**

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

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*Complaint Information:* Complaint alleges that respondent has a travel trailer on the property discharging raw sewage into a roadside ditch.

**Dates of Investigation:** October 24, 2019, December 20, 2019, February 19, 2020, and August 20, 2020

**Date of NOV:** February 29, 2020

**Date of NOE:** October 23, 2020

**Al Espree**  
**RN110882388**  
**Docket No. 2020-1586-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 disposal of municipal solid waste (“MSW”) [30 TEX. ADMIN. CODE § 330.15(a) and (c)].

**Corrective Actions/Technical Requirements**

**Corrective Action Completed:**

None

**Technical Requirements:**

1. Immediately:
  - a. Cease all unauthorized burning of MSW at the Site; and
  - b. Cease disposal of any additional MSW at the Site.
2. Within 30 days remove all MSW from the Site and dispose of it at an authorized facility.
3. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1 and 2.

**Litigation Information**

**Date Petition Filed:** February 24, 2025  
**Date of Service:** February 28, 2025  
**Date Answer Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Casey Kurnath, 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) 755-4353  
**TCEQ Regional Contact:** David King, Beaumont Regional Office, (409) 898-3838  
**Respondent Contact:** Al Espree, 1201 4th Street, Nome, Texas 77629, 409-659-0670  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	26-Oct-2020	<b>Screening</b>	10-Nov-2020	<b>EPA Due</b>	
	<b>PCW</b>	2-Nov-2021				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Al Espree
<b>Reg. Ent. Ref. No.</b>	RN110882388
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	60177	<b>No. of Violations</b>	2
<b>Docket No.</b>	2020-1586-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Air	<b>Enf. Coordinator</b>	Alain Elegbe
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$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.

<b>Compliance History</b>	<b>5.0%</b>	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$125
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<b>Notes</b>	Enhancement for one NOV with same/similar violations.
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<b>Culpability</b>	No	<b>0.0%</b>	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	<b>0.0%</b>	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$371	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$509	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,625
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>13.6%</b>	<b>Adjustment</b>	\$356
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 1.
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<b>Final Penalty Amount</b>	\$2,981
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,981
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<b>DEFERRAL</b>		<b>Reduction</b>	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$2,981
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<b>Screening Date</b>	10-Nov-2020	<b>Docket No.</b>	2020-1586-MLM-E	<b>PCW</b>
<b>Respondent</b>	Al Espree			
<b>Case ID No.</b>	60177			
<b>Reg. Ent. Reference No.</b>	RN110882388			
<b>Media</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Alain Elegbe			

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

### 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%

<b>Screening Date</b>	10-Nov-2020	<b>Docket No.</b>	2020-1586-MLM-E	<b>PCW</b>
<b>Respondent</b>	Al Espree	Policy Revision 4 (April 2014)		
<b>Case ID No.</b>	60177	PCW Revision March 26, 2014		
<b>Reg. Ent. Reference No.</b>	RN110882388			
<b>Media</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Alain Elegbe			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 23 cubic yards of municipal solid waste ("MSW") consisting of household waste, miscellaneous metal steel-belted tire, fiberglass insulation, clothing, vegetative debris, and furniture were burned at the Site.			
<b>Base Penalty</b>				\$25,000

  

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

<b>OR</b>		<b>Release</b>	<b>Harm</b>		
			Major      Moderate      Minor		
	Actual			X	<b>Percent</b>
	Potential				

  

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b>

  

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.
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<b>Adjustment</b>	\$23,750
	\$1,250

  

**Violation Events**

Number of Violation Events	1	Number of violation days	1
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	daily		<b>Violation Base Penalty</b>
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	

  

One single event is recommended.

  

**Good Faith Efforts to Comply**

	<b>0.0%</b>		<b>Reduction</b>	\$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.
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<b>Violation Subtotal</b>	\$1,250
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**Economic Benefit (EB) for this violation**

	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	\$356
<b>Violation Final Penalty Total</b>	\$1,491
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$1,491



# Economic Benefit Worksheet

**Respondent** AI Espree  
**Case ID No.** 60177  
**Reg. Ent. Reference No.** RN110882388  
**Media** Municipal Solid Waste  
**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	\$341	19-Dec-2019	10-Nov-2020	0.90	\$15	\$341	\$356
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to properly dispose of approximately 23 cubic yards of MSW at an authorized facility rather than burning. The Date Required is one day prior to the initial investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$341

**TOTAL**

\$356

<b>Screening Date</b> 10-Nov-2020 <b>Respondent</b> Al Espree <b>Case ID No.</b> 60177 <b>Reg. Ent. Reference No.</b> RN110882388 <b>Media</b> Municipal Solid Waste <b>Enf. Coordinator</b> Alain Elegbe	<b>Docket No.</b> 2020-1586-MLM-E	<b>PCW</b> <i>Policy Revision 4 (April 2014)</i> <i>PCW Revision March 26, 2014</i>
<b>Violation Number</b> <span style="border: 1px solid black; padding: 2px;">2</span>		
<b>Rule Cite(s)</b> <span style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 330.15(a) and (c)</span>		
<b>Violation Description</b> <span style="border: 1px solid black; padding: 5px;">           Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately nine cubic yards of MSW consisting of general household waste, refrigerators, washing machines, barbecue pit, empty paint cans, air conditioning units, toilets, and metal sheet were disposed of at the Site.         </span>		
<b>Base Penalty</b>		\$25,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
<b>OR</b>	<b>Release</b>	<b>Harm</b>
	Major      Moderate      Minor	
	Actual <span style="border: 1px solid black; padding: 2px;"></span> <span style="border: 1px solid black; padding: 2px;"></span> <span style="border: 1px solid black; padding: 2px;">X</span>	
	Potential <span style="border: 1px solid black; padding: 2px;"></span> <span style="border: 1px solid black; padding: 2px;"></span> <span style="border: 1px solid black; padding: 2px;"></span>	<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">5.0%</span>
<b>&gt;&gt; Programmatic Matrix</b>		
	Falsification      Major      Moderate      Minor	
	<span style="border: 1px solid black; padding: 2px;"></span> <span style="border: 1px solid black; padding: 2px;"></span> <span style="border: 1px solid black; padding: 2px;"></span> <span style="border: 1px solid black; padding: 2px;"></span>	<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">0.0%</span>
<b>Matrix Notes</b>	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.	
<b>Adjustment</b>		\$23,750
		\$1,250
<b>Violation Events</b>		
Number of Violation Events <span style="border: 1px solid black; padding: 2px;">1</span>		<span style="border: 1px solid black; padding: 2px;">82</span> Number of violation days
	<div style="border: 1px solid black; padding: 2px;">           daily <span style="border: 1px solid black; padding: 2px;"></span>            weekly <span style="border: 1px solid black; padding: 2px;"></span>            monthly <span style="border: 1px solid black; padding: 2px;"></span>            quarterly <span style="border: 1px solid black; padding: 2px;">x</span>            semiannual <span style="border: 1px solid black; padding: 2px;"></span>            annual <span style="border: 1px solid black; padding: 2px;"></span>            single event <span style="border: 1px solid black; padding: 2px;"></span> </div>	<b>Violation Base Penalty</b> <span style="border: 1px solid black; padding: 2px;">\$1,250</span>
One quarterly event is recommended from the August 20, 2020 investigation date to the November 10, 2020 screening date.		
<b>Good Faith Efforts to Comply</b>		<b>Reduction</b> <span style="border: 1px solid black; padding: 2px;">\$0</span>
<b>0.0%</b> <small>Before NOE/NOV      NOE/NOV to EDPRP/Settlement Offer</small>		
Extraordinary <span style="border: 1px solid black; padding: 2px;"></span> Ordinary <span style="border: 1px solid black; padding: 2px;"></span> N/A <span style="border: 1px solid black; padding: 2px;">X</span>	<b>Notes</b> The Respondent does not meet the good faith criteria for this violation.	
<b>Violation Subtotal</b>		\$1,250
<b>Economic Benefit (EB) for this violation      Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$15	<b>Violation Final Penalty Total</b> <span style="border: 1px solid black; padding: 2px;">\$1,491</span>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,491

## Economic Benefit Worksheet

**Respondent** Al Espree  
**Case ID No.** 60177  
**Reg. Ent. Reference No.** RN110882388  
**Media** Municipal Solid Waste  
**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	\$168	24-Oct-2019	22-Aug-2021	1.83	\$15	n/a	\$15
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 approximately nine cubic yards of MSW from the Site and dispose of it at an authorized facility. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$168

**TOTAL**

\$15

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN605716737, RN110882388, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN605716737, ESPREE, AL **Classification:** SATISFACTORY **Rating:** 12.00

**Regulated Entity:** RN110882388, 1201 4TH ST **Classification:** SATISFACTORY **Rating:** 12.00

**Complexity Points:** 0 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 1201 4<sup>th</sup> Street, Nome, Jefferson County, Texas 77629

**TCEQ Region:** REGION 10 - BEAUMONT

**ID Number(s):**  
**MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER**  
10110882388

**Compliance History Period:** September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

**Date Compliance History Report Prepared:** February 24, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 24, 2016, to February 24, 2021

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

**Name:** Alain Elegbe **Phone:** (512) 239-6924

## 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:      02/29/2020      (1626010)
- Self Report?      NO      Classification:      Moderate
- Citation:      30 TAC Chapter 330, SubChapter A 330.15(a)  
30 TAC Chapter 330, SubChapter A 330.15(a)(2)  
30 TAC Chapter 330, SubChapter A 330.15(a)(3)
- Description:      Failure to properly dispose of municipal solid waste. B17.(2)(D) MOD
- Self Report?      NO      Classification:      Moderate
- Citation:      30 TAC Chapter 111, SubChapter B 111.201
- Description:      Failure to meet outdoor burning exemptions. B18e7 (2)(D)MOD

**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  
AL ESPREE;  
RN110882388**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2020-1586-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 and 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 respondent. The respondent made the subject of this Order is Al Espree ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent operates an unauthorized municipal solid waste ("MSW") site located at 1201 4th Street, in Nome, Jefferson County, Texas (the "Site"). The Site involves or involved the management of municipal solid waste 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 investigations conducted on October 24, 2019, December 20, 2019, February 19, 2020, and August 20, 2020, an investigator documented that Respondent:
  - a. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 23 cubic yards of MSW consisting of household waste, miscellaneous metal steel-belted tires, fiberglass insulation, clothing, vegetative debris, and furniture were burned at the Site; and
  - b. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately nine cubic yards of MSW consisting of general household waste, refrigerators, washing machines, barbeque pit, empty paint cans, air conditioning units, toilets, and metal sheets were disposed of at the Site.
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 Al Espree" (the "EDPRP") in the TCEQ Chief Clerk's office on February 24, 2025.
4. By letter dated February 24, 2025, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on February 28, 2025 (USPS), as evidenced by the signature on the card.
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE chs. 361 and 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent 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., Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c).
4. 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).
5. 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.
6. 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.
7. An administrative penalty in the amount of \$2,981 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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 \$2,981 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: Al Espree; Docket No. 2020-1586-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. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order:
    - i. Cease all unauthorized burning of MSW at the Site; and
    - ii. Cease disposal of any additional MSW at the Site.

- b. Within 30 days after the effective date of this Order remove all MSW from the Site and dispose of it at an authorized facility; and
- c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

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

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

and:

Waste Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1830

- 4. All relief not expressly granted in this Order is denied.
- 5. The provisions of this Order shall apply to and be binding upon Respondent.
- 6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
- 7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
- 9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.



10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF CASEY KURNATH

"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 Al Espree' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 24, 2025.

The EDPRP was mailed to Respondent's last known address on February 24, 2025, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on February 28, 2025, as evidenced by the signature on the card.

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

Executed in Travis County,  
State of Texas,  
on the 22<sup>nd</sup> day of April, 2025

*Casey Kurnath*

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Declarant