

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 58857
Al Jones dba Al's Tire Shop
RN110778420
Docket No. 2020-0163-MSW-E

Order Type:
Default Order

Media:
MSW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
3201 North Chadbourne Street, San Angelo, Tom Green County

Type of Operation:
tire sales and service shop

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 1, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$11,812

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$11,812

Compliance History Classifications:
Person/CN - Satisfactory
Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: May 17, 2019; September 18, 2019

Date(s) of NOV(s): June 25, 2019

Date(s) of NOE(s): October 25, 2019

Al Jones dba Al's Tire Shop
RN110778420
Docket No. 2020-0163-MSW-E

Violation Information

1. Failed to obtain a registration for a generator storing more than 500 tires on-site. [30 TEX. ADMIN. CODE § 328.56(a)(1)].
2. Failed to use manifests, work orders, invoices, or other records to document the removal and management of all scrap tires generated on-site [30 TEX. ADMIN. CODE § 328.56(c)].
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 generating used or scrap tires at the Site until:
 - i. A tire generator registration is obtained; or
 - ii. The number of tires stored on-site is reduced to less than 500.
 - b. Begin maintaining records documenting the removal and management of scrap tires generated on-site using manifests, work orders, invoices, or other records.
2. Within 30 days:
 - a. Obtain a scrap tire storage site registration; or
 - b. In lieu of Technical Requirement No. 2.a., reduce the number of used and scrap tires to less than 500 on the ground or less than 2,000 in lockable containers.
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a.i. or 1.a.ii., 1.b., and 2.a. or 2.b.

Litigation Information

Date Petition(s) Filed: January 28, 2021; September 15, 2021; September 24, 2021; November 3, 2021

Date Green Card(s) Signed: February 9, 2021; unclaimed; unclaimed; November 5, 2021

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Cynthia Sirois, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: John Fennell, Enforcement Division, (512) 239-2616

TCEQ Regional Contact: Christopher Mayben, San Angelo Regional Office, (325) 655-9479

Respondent Contact: Al Jones, 7456 South Copper Mountain Circle, San Angelo, Texas 76901

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	28-Oct-2019	Screening	15-Nov-2019	EPA Due	
	PCW	1-Jun-2020				

RESPONDENT/FACILITY INFORMATION

Respondent	Al Jones dba Al's Tire Shop				
Reg. Ent. Ref. No.	RN110778420				
Facility/Site Region	8-San Angelo	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	58857	No. of Violations	3
Docket No.	2020-0163-MSW-E	Order Type	1660
Media Program(s)	Waste Tires	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Fennell
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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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	\$562
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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 Respondent does 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	\$645	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,145	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,812
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$11,812
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,812
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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	\$11,812
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Screening Date 15-Nov-2019

Docket No. 2020-0163-MSW-E

PCW

Respondent Al Jones dba Al's Tire Shop

Policy Revision 4 (April 2014)

Case ID No. 58857

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110778420

Media Waste Tires

Enf. Coordinator John Fennell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	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 15-Nov-2019

Docket No. 2020-0163-MSW-E

PCW

Respondent Al Jones dba Al's Tire Shop

Policy Revision 4 (April 2014)

Case ID No. 58857

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN110778420

Media Waste Tires

Enf. Coordinator John Fennell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 328.56(a)(1)

Violation Description Failed to obtain a registration for a generator storing more than 500 tires on-site. Specifically, 714 used tires, 452 scrap tires, and 30 weight equivalent tire pieces were stored on-site without a generator registration.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			15.0%
	100% of the rule requirement was not met.				

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 58 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the September 18, 2019 investigation date to the November 15, 2019 screening date.

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

Economic Benefit Worksheet

Respondent Al Jones dba Al's Tire Shop
Case ID No. 58857
Reg. Ent. Reference No. RN110778420
Media Waste Tires
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Registration Costs	\$100	17-May-2019	23-Aug-2020	1.27	\$6	n/a	\$6
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6

Screening Date 15-Nov-2019
Respondent Al Jones dba Al's Tire Shop
Case ID No. 58857
Reg. Ent. Reference No. RN110778420
Media Waste Tires
Enf. Coordinator John Fennell

Docket No. 2020-0163-MSW-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

Notes

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 Al Jones dba Al's Tire Shop
Case ID No. 58857
Reg. Ent. Reference No. RN110778420
Media Waste Tires
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	17-May-2019	23-Aug-2020	1.27	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to use and maintain records to document the removal and management of tires. The Date Required is the initial investigation date, and the Final Date is the estimated compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$45

TOTAL

\$3

Screening Date 15-Nov-2019
Respondent Al Jones dba Al's Tire Shop
Case ID No. 58857
Reg. Ent. Reference No. RN110778420
Media Waste Tires
Enf. Coordinator John Fennell

Docket No. 2020-0163-MSW-E

PCW

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

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 328.60(a) and Tex. Health and Safety Code § 361.112(a)

Violation Description
 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 714 used tires, 452 scrap tires, and 30 weight equivalent tire pieces were stored on the ground.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes
 100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 58 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the September 18, 2019 investigation date to the November 15, 2019 screening date.

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$636

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

Economic Benefit Worksheet

Respondent Al Jones dba Al's Tire Shop
Case ID No. 58857
Reg. Ent. Reference No. RN110778420
Media Waste Tires
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Registration Costs	\$10,000	17-May-2019	23-Aug-2020	1.27	\$636	n/a	\$636
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$636

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 CN605660265, RN110778420, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN605660265, Jones, AI **Classification:** SATISFACTORY **Rating:** 16.00
Regulated Entity: RN110778420, AI's Tire Shop **Classification:** SATISFACTORY **Rating:** 16.00
Complexity Points: 0 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 3201 NORTH CHADBOURNE STREET IN SAN ANGELO, TOM GREEN COUNTY, TEXAS 76903-2349
TCEQ Region: REGION 08 - SAN ANGELO

ID Number(s):
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
R08110778420
Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019
Date Compliance History Report Prepared: February 18, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 18, 2015 to February 18, 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.):

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: 06/25/2019 (1569757)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 328, SubChapter F 328.56(a)(1)
Description: Failure to comply with regulations stating generators storing more than 500 tires outside on the ground shall obtain a registration number from the executive director.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 328, SubChapter F 328.56(c)
Description: Failure to document the removal and management of all scrap tires.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 328, SubChapter F 328.63(c)(1)		
Description:	Failure to register as a scrap tire facility.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 328, SubChapter F 328.56(d)(4)		
Description:	Failure to monitor and treat tires stored outside for vectors at least once every two weeks.		

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 JONES DBA AL'S TIRE SHOP;
RN110778420**

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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2020-0163-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 Al Jones dba Al's Tire Shop ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a tire sales and service shop located at 3201 North Chadbourne Street in San Angelo, Tom Green County, Texas (the "Site"). The Site contains and/or involves the management of municipal solid waste ("MSW"), including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During investigations conducted on May 17, 2019 and September 18, 2019, an investigator documented that Respondent:
 - a. Failed to obtain a registration for a generator storing more than 500 tires on-site. Specifically, 714 used tires, 452 scrap tires, and 30 weight equivalent tire pieces were stored on-site without a generator registration;
 - b. Failed to use manifests, work orders, invoices, or other records to document the removal and management of all scrap tires generated on-site; 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 714 used tires, 452 scrap tires, and 30 weight equivalent tire pieces were stored on the ground.
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 Jones dba Al's Tire Shop" (the "EDPRP") in the TCEQ Chief Clerk's office on November 3, 2021.
4. By letter dated November 3, 2021, 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 November 5, 2021, 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 ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain a registration for a generator storing more than 500 tires on-site, in violation of 30 TEX. ADMIN. CODE § 328.56(a)(1);
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to use manifests, work orders, invoices or other records to document the removal and management of all scrap tires generated on-site, in violation of 30 TEX. ADMIN. CODE § 328.56(c); 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 eleven thousand eight hundred twelve dollars (\$11,812.00) 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 eleven thousand eight hundred twelve dollars (\$11,812.00) 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: Al Jones dba Al's Tire Shop; Docket No. 2020-0163-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 generating used or scrap tires at the Site until:
 - (1) A tire generator registration is obtained, in accordance with 30 TEX. ADMIN. CODE § 328.56; or
 - (2) The number of tires stored on-site is reduced to less than 500.
 - ii. Begin maintaining records documenting the removal and management of scrap tires generated on-site using manifests, work orders, invoices, or other records, in accordance with 30 TEX. ADMIN. CODE § 328.56.
 - b. 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.b.i., reduce the number of used and scrap tires to less than 500 on the ground or less than 2,000 in lockable containers.
 - c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 3.a.i.(1) or 3.a.i.(2), 3.a.ii., and 3.b.i or 3.b.ii. 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."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Corrective Action Ordering Provisions to:

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

and:

Waste Section Manager
San Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7035

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 Site 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 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 QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF CYNTHIA SIROIS

“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 Jones dba Al’s Tire Shop” (the “EDPRP”) was filed in the TCEQ Chief Clerk’s office on November 3, 2021.

The EDPRP was mailed to Respondent's last known address on November 3, 2021, via certified mail, return receipt requested, postage prepaid. According to the return receipt “green card,” Respondent received notice of the EDPRP on November 5, 2021, 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 Cynthia Sirois, 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 8th day of June, 2022

A handwritten signature in cursive script that reads "Cynthia K. Sirois".

Declarant