

Executive Summary – Enforcement Matter – Case No. 60683

Ramon Vela

RN111231502

Docket No. 2021-0560-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - AIR, MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Ramon Vela unauthorized site, located 3.4 miles east of the intersection of County Road 759 and State Highway 70, Perryton, Ochiltree County

Type of Operation:

Unauthorized municipal solid waste ("MSW") site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: October 15, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$36,324

Amount Deferred for Expedited Settlement: \$7,264

Total Paid to General Revenue: \$988

Total Due to General Revenue: \$28,072

Payment Plan: 29 monthly payments of \$968 each

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source:

AIR: No

MSW: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 60683

Ramon Vela

RN111231502

Docket No. 2021-0560-MLM-E

Investigation Information

Complaint Date(s): January 4, 2021

Complaint Information: Alleged that tire burning was occurring in Ochiltree County.

Date(s) of Investigation: January 8, 2021 through January 22, 2021

Date(s) of NOE(s): April 14, 2021

Violation Information

1. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately 930 cubic yards of MSW were disposed of at the Site including two piles of industrial tarp material (combined total of 347 cubic yards) and two demolished buildings that were buried in two pits (one contained approximately 250 cubic yards of building materials and the other contained approximately 333 cubic yards of MSW including black industrial tarp material, a tree trunk, tree limbs, brush, wooden building materials, a water heater, an air conditioning unit, a refrigerator, and various metal and non-metal building materials). Additionally, there was one pit with approximately 2,000 buried tires that were burning [30 TEX. ADMIN. CODE § 330.15(a)].

2. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, the Respondent was burning the 2,000 scrap tires that were buried in a pit [30 TEX. ADMIN. CODE § 111.219(7) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Immediately:

i. Cease burning MSW including scrap tires; and

ii. Cease disposing of any additional MSW.

b. Within 90 days, remove all unauthorized MSW and dispose of it at an authorized facility.

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- c. Within 105 days, submit written certification to demonstrate compliance with a. and b.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Stephanie McCurley, Enforcement Division, Enforcement Team 7, MC 219, (512) 239-2607; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Ramon Vela, Property Owner, 13143 County Road 11, Perryton, Texas 79070

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	19-Apr-2021	Screening	28-Apr-2021	EPA Due	
	PCW	2-May-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Ramon Vela				
Reg. Ent. Ref. No.	RN111231502				
Facility/Site Region	1-Amarillo	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	60683	No. of Violations	1	
Docket No.	2021-0560-MLM-E	Order Type	1660	
Media Program(s)	Air	Government/Non-Profit	No	
Multi-Media	Municipal Solid Waste, Waste Tires	Enf. Coordinator	Stephanie McCurley	
		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	\$1,250
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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	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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: \$5,074
 Estimated Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	405.9%	Adjustment	\$5,074
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost associated with the violation.

Final Penalty Amount	\$6,324
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,324
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,264
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$5,060
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Screening Date 28-Apr-2021

Docket No. 2021-0560-MLM-E

PCW

Respondent Ramon Vela

Policy Revision 4 (April 2014)

Case ID No. 60683

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN111231502

Media Air

Enf. Coordinator Stephanie McCurley

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>)	0	0%
	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) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 28-Apr-2021

Docket No. 2021-0560-MLM-E

PCW

Respondent Ramon Vela

Policy Revision 4 (April 2014)

Case ID No. 60683

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN111231502

Media Air

Enf. Coordinator Stephanie McCurley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 111.219(7) and Tex. Health & Safety Code § 382.085(b)

Violation Description Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, the Respondent was burning the 2,000 scrap tires that were buried in a pit.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> 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

1 Number of violation days

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 \$5,074

Violation Final Penalty Total \$6,324

This violation Final Assessed Penalty (adjusted for limits) \$6,324

Economic Benefit Worksheet

Respondent Ramon Vela
Case ID No. 60683
Reg. Ent. Reference No. RN111231502
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

The estimated delayed cost to remove the scrap tire remnants and dispose of them at an authorized facility is included in the Economic Benefit for Violation No. 1 on the MSW PCW.

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)	\$5,000	8-Jan-2021	28-Apr-2021	0.30	\$74	\$5,000	\$5,074

Notes for AVOIDED costs

Estimated avoided cost to dispose of scrap tires at an authorized facility rather than burning them. The Date Required is the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance \$5,000

TOTAL \$5,074



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	19-Apr-2021	Screening	28-Apr-2021	EPA Due	
	PCW	2-May-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Ramon Vela				
Reg. Ent. Ref. No.	RN111231502				
Facility/Site Region	1-Amarillo	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	60683	No. of Violations	1	
Docket No.	2021-0560-MLM-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No	
Multi-Media	Waste Tires, Air	Enf. Coordinator	Stephanie McCurley	
		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	\$30,000
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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	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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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	\$1,116	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$20,311	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$30,000
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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	\$30,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$30,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$6,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$24,000
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Screening Date 28-Apr-2021

Docket No. 2021-0560-MLM-E

PCW

Respondent Ramon Vela

Policy Revision 4 (April 2014)

Case ID No. 60683

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN111231502

Media Municipal Solid Waste

Enf. Coordinator Stephanie McCurley

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>)	0	0%
	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) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 28-Apr-2021

Docket No. 2021-0560-MLM-E

PCW

Respondent Ramon Vela

Policy Revision 4 (April 2014)

Case ID No. 60683

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN111231502

Media Municipal Solid Waste

Enf. Coordinator Stephanie McCurley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(a)

Violation Description Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 930 cubic yards of MSW were disposed of at the Site including two piles of industrial tarp material (combined total of 347 cubic yards) and two demolished buildings that were buried in two pits (one contained approximately 250 cubic yards of building materials and the other contained approximately 333 cubic yards of MSW including black industrial tarp material, a tree trunk, tree limbs, brush, wooden building materials, a water heater, an air conditioning unit, a refrigerator, and various metal and non-metal building materials). Additionally, there was one pit with approximately 2,000 buried tires that were burning.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		30.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 4 110 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$30,000

Four monthly events are recommended from the January 8, 2021 investigation start date to the April 28, 2021 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 \$30,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,116

Violation Final Penalty Total \$30,000

This violation Final Assessed Penalty (adjusted for limits) \$30,000

Economic Benefit Worksheet

Respondent Ramon Vela
Case ID No. 60683
Reg. Ent. Reference No. RN111231502
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	\$20,311	8-Jan-2021	13-Feb-2022	1.10	\$1,116	n/a	\$1,116
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 dispose of the unauthorized MSW (\$20,311) at an authorized facility. The Date Required is the investigation start 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

\$20,311

TOTAL

\$1,116

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 CN605872993, RN111231502, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator:	CN605872993, Ramon Vela	Classification:	NOT APPLICABLE	Rating:	N/A
Regulated Entity:	RN111231502, Ramon Vela Unauthorized Site	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	3.4 miles east of the intersection of County Road 759 and State Highway 70 in Perryton, Ochiltree County, Texas				
TCEQ Region:	REGION 01 - AMARILLO				
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER R01111231502				
Compliance History Period:	September 01, 2015 to August 31, 2020	Rating Year:	2020	Rating Date:	09/01/2020
Date Compliance History Report Prepared:	April 22, 2021				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	April 22, 2016 to April 22, 2021				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Stephanie McCurley			Phone:	(512) 239-2607

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.

N/A

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
RAMON VELA
RN111231502**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-0560-MLM-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ramon Vela (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns an unauthorized municipal solid waste ("MSW") site located 3.4 miles east of the intersection of County Road 759 and State Highway 70 in Perryton, Ochiltree County, Texas (the "Site"). The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.033(12) and involves or involved the management of MSW, including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$36,324 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$988 of the penalty and \$7,264 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$28,072 of the undeferred penalty shall be paid in 29 monthly payments of \$968 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order,

including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. 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.

II. ALLEGATIONS

During an investigation conducted January 8, 2021 through January 22, 2021, an investigator documented that the Respondent:

1. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a). Specifically, approximately 930 cubic yards of MSW were disposed of at the Site including two piles of industrial tarp material (combined total of 347 cubic yards) and two demolished buildings that were buried in two pits (one contained approximately 250 cubic yards of building materials and the other contained approximately 333 cubic yards of MSW including black industrial tarp material, a tree trunk, tree limbs, brush, wooden building materials, a water heater, an air conditioning unit, a refrigerator, and various metal and non-metal building materials). Additionally, there was one pit with approximately 2,000 buried tires that were burning.
2. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of 30 TEX. ADMIN. CODE § 111.219(7) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent was burning the 2,000 scrap tires that were buried in a pit.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ramon Vela, Docket No. 2021-0560-MLM-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order:
 - i. Cease burning MSW, including scrap tires, at the Site; and
 - ii. Cease disposing of any additional MSW at the Site.
 - b. Within 90 days after the effective date of this Order, remove all unauthorized MSW from the Site and dispose of it at an authorized facility.
 - c. Within 105 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The 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.
5. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the 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. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or

issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



5/18/2022

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date



4/6/22

Name (Printed or typed)
Authorized Representative of
Ramon Vela

Title



If mailing address has changed, please check this box and provide the new address below: