

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60774
AWS, LLC dba AWS Communications
RN111236444
Docket No. 2021-0656-MLM-E

Page 1 of 2

Order Type:
Agreed Order

Media:
MLM: MSW, WQ

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
0.10 mile north of Highway 6, at the North Bosque River and County Road 248, Hico, Erath County,
(the “Site”)

Type of Operation:
unauthorized municipal solid waste (“MSW”) disposal 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: September 9, 2022

Comments Received: None

Penalty Information

Total Penalty Assessed: \$10,381
Total Paid to General Revenue: \$10,381
Total Due to General Revenue: \$0

Compliance History Classifications:
Person/CN - N/A
Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): March 5, 2021
Complaint Information: Alleged a responsible party has been disposing of drilling materials without authorization into a nearby river.

Date(s) of Investigation: March 10, 2021

Date(s) of NOV(s): N/A

Date(s) of NOE(s): April 30, 2021

Violation Information

Caused, suffered, allowed, or permitted the unauthorized disposal of MSW into or adjacent to water in the state [30 TEX. ADMIN. CODE § 330.15(a) and (c) and TEX. WATER CODE § 26.121].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Properly removed MSW from impacted soil from the Site and disposed of it at an authorized facility, and an on-site follow-up investigation confirmed that the Site had been remediated to background levels, on July 12, 2021.

Technical Requirements: None

Litigation Information

Settlement Date: July 25, 2022

Contact Information

TCEQ Attorneys: Marilyn Norrod, 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: Karolyn Kent, Enforcement Division, 512-239-2536

TCEQ Regional Contact: Erin Gorman, Dallas/Fort Worth Regional Office, 817-588-5800

Respondent Contact: Bobby McClung, Chief Executive Officer, AWS, LLC, 8708 South Congress
Avenue, Suite A120, Austin, Texas 78745-7378

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	3-May-2021	Screening	13-May-2021	EPA Due	
	PCW	25-Apr-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	AWS, LLC dba AWS Communications				
Reg. Ent. Ref. No.	RN111236444				
Facility/Site Region	4-Dallas/Fort Worth		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	60774	No. of Violations	1
Docket No.	2021-0656-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Karolyn Kent
		EC's Team	Enforcement Team 6
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	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	-\$1,125
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$257
Estimated Cost of Compliance: \$354
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	2.5%	Adjustment	\$256
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation No. 1.

Final Penalty Amount	\$10,381
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,381
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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.

PAYABLE PENALTY	\$10,381
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Screening Date	13-May-2021	Docket No.	2021-0656-MLM-E	PCW
Respondent	AWS, LLC dba AWS Communications			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	60774			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111236444			
Media	Municipal Solid Waste			
Enf. Coordinator	Karolyn Kent			

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 13-May-2021 Respondent AWS, LLC dba AWS Communications Case ID No. 60774 Reg. Ent. Reference No. RN11236444 Media Municipal Solid Waste Enf. Coordinator Karolyn Kent	Docket No. 2021-0656-MLM-E Policy Revision 5 (January 28, 2021) PCW Revision February 11, 2021	PCW			
Violation Number 1					
Rule Cite(s) 30 Tex. Admin. Code § 330.15(a) and (c) and Tex. Water Code § 26.121					
Violation Description Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW") into or adjacent to waters of the state. Specifically, the investigators documented the unauthorized disposal of approximately 300 gallons of drilling waste consisting of drilling mud and soil cuttings at the Site without authorization. 					
Base Penalty		\$25,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual			X	
	Potential				
		Percent	15.0%		
>>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
					Percent
	0.0%				
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
Adjustment		\$21,250			
		\$3,750			
Violation Events					
Number of Violation Events		3	Number of violation days 64		
	daily				
	weekly				
	monthly	X			
	quarterly				
	semiannual				
	annual				
	single event				
Violation Base Penalty		\$11,250			
Three monthly events are recommended from the March 10, 2021 investigation date to the May 13, 2021 screening date.					
Good Faith Efforts to Comply		10.0%	Reduction	\$1,125	
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary				
	Ordinary		X		
	N/A				
	Notes	The Respondent came into compliance by properly removing MSW from impacted soil and disposing of it at an authorized facility, remediating the Site to background levels, and providing waste determination documentation to the investigator on July 7, 2021, after the April 30, 2021 Notice of Enforcement.			
Violation Subtotal		\$10,125			
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount		\$257	Violation Final Penalty Total	\$10,381	
This violation Final Assessed Penalty (adjusted for limits)		\$10,381			

Economic Benefit Worksheet

Respondent AWS, LLC dba AWS Communications
Case ID No. 60774
Reg. Ent. Reference No. RN111236444
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)	\$100	10-Mar-2021	28-May-2021	0.22	\$1	n/a	\$1

Notes for DELAYED costs

Estimated delayed cost to implement a procedure to properly dispose of MSW at authorized facilities. Date Required is the investigation date, and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$254	4-Mar-2021	13-May-2021	0.19	\$2	\$254	\$256
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to properly remove and dispose of MSW instead of releasing into water. Date Required is the date the unauthorized disposal occurred, and the Final Date is the screening date.

Approx. Cost of Compliance

\$354

TOTAL

\$257

The TCEQ is committed to accessibility.

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Compliance History Report

Compliance History Report for CN605869312, RN111236444, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN606000578, AWS, LLC **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN111236444, Erath CAD Property ID R19139 **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 0.10 mile north of Highway 6, at the North Bosque River and County Road 248, Hico, Erath County, Texas 76457

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
R04111236444

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

Date Compliance History Report Prepared: October 18, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 21, 2016 to June 21, 2021

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Karolyn Kent **Phone:** (512) 239-2536

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.):
Item 1 April 08, 2021 (1705878)

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
AWS, LLC DBA AWS COMMUNICATIONS
RN111236444

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2021-0656-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 AWS, LLC dba AWS Communications (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Litigation Division, and the Respondent together stipulate that:

1. The Respondent operates an unauthorized municipal solid waste ("MSW") disposal site located 0.10 mile north of Highway 6, at the North Bosque River and County Road 248 in Hico, Erath County, Texas (the "Site"). The Site involves or involved the management of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Site is near or adjacent to water in the state, as defined in TEX. WATER CODE ch. 26.001(5).
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 ch. 361, TEX. WATER CODE ch. 26, 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 ten thousand three hundred and eighty-one dollars (\$10,381.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid ten thousand three hundred and eighty-one dollars (\$10,381.00).
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, 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 Respondent has not complied with one or more of the terms or conditions contained 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 full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent properly removed MSW from impacted soil from the Site and disposed of it at an authorized facility, and an on-site follow-up investigation confirmed that the Site had been remediated to background levels, on July 12, 2021.

II. ALLEGATIONS

During an investigation conducted on March 10, 2021, an investigator documented that the Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c) and TEX. WATER CODE § 26.121. Specifically, the investigators documented the unauthorized disposal of approximately 300 gallons of drilling waste consisting of drilling mud and soil cuttings at the Site without authorization.

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: AWS LLC, DBA AWS COMMUNICATIONS, Docket No. 2021-0656- 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. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent.
4. 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.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
6. 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.
7. 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.
8. 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



For the Executive Director

Date

11/14/22

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



Print or Type Name

Authorized Representative of
AWS, LLC dba AWS
Communications

Date

7-25-2022

Title

CEO

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