

Laura Smith

RN110730223

Docket No. 2021-0764-MLM-E

Order Type:

Agreed Order

Media:

MLM: MSW and IHW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

926 Stevens Ranch Road, Bandera, Bandera County (the “Site”)

Type of Operation:

unauthorized municipal solid waste (“MSW”) and industrial hazardous waste (“IHW”) site

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: None

Texas Register Publication Date: June 28, 2024**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$41,250**Deferred for Financial Inability to Pay:** \$40,050

Confidential information, which may include financial information, has been provided to the Commission for its consideration.

Total Paid to General Revenue: \$100**Total Due to General Revenue:** \$1,100

Payment Plan: 11 payments of \$100 each

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: PCW 1: Yes; PCW 2: No**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** January 28, 2021**Investigation Information****Complaint Date(s):** March 23, 2021*Complaint Information:* Alleged regulated entity is dumping waste onto the property.**Date(s) of Investigation:** April 6, 2021, through April 8, 2021**Date(s) of NOV(s):** N/A**Date(s) of NOE(s):** May 25, 2021

Laura Smith
RN110730223
Docket No. 2021-0764-MLM-E

Violation Information

1. Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW") [30 TEX. ADMIN. CODE § 330.15(c)].
2. Caused, suffered, allowed, or permitted the unauthorized disposal of industrial hazardous waste ("IHW") [30 TEX. ADMIN. CODE § 335.4].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately cease disposing of any additional MSW or IHW, including scrap tires, at the Site.
2. Within 90 days, remove all IHW, including the cathode ray tube monitor, and MSW, including scrap tires, from the Site and properly dispose of it at authorized facilities.
3. Within 105 days, submit written certification to demonstrate compliance with Technical Requirements Nos 1 and 2.

Litigation Information

Date Petition(s) Filed: May 5, 2022

Date(s) of Service: May 12, 2022

Date Answer(s) Filed: May 27, 2022

SOAH Referral Date: November 1, 2022

Hearing Date(s):

Preliminary hearing: February 23, 2023 (waived)

Evidentiary hearing: November 1, 2023 (continued to February 6, 2024 (remanded))

Settlement Date: March 8, 2024

Contact Information

TCEQ Attorneys: Casey Kurnath, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

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

TCEQ Enforcement Coordinator: Stephanie McCurley, Enforcement Division, (512) 239-2607

TCEQ Regional Contact: Jack Higginbotham, San Antonio Regional Office, (210) 490-3096

Respondent Contact: Laura Smith, 144 Timber Lane, Bandera, Texas 78003

Respondent's Attorney: William C. Dufour, William C. Dufour & Associates, PLLC, 3301 Northland Drive, Suite 213, Austin, Texas 78731



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	3-Jun-2021	Screening	10-Jun-2021	EPA Due	
	PCW	16-Nov-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Laura Smith	
Reg. Ent. Ref. No.	RN110730223	
Facility/Site Region	13-San Antonio	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	60883	No. of Violations	1
Docket No.	2021-0764-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Industrial and Hazardous 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	\$37,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

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	\$1,624
Estimated Cost of Compliance	\$10,547

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$37,500
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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:

Final Penalty Amount	\$37,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$37,500
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DEFERRAL		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	\$37,500
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Screening Date	10-Jun-2021	Docket No.	2021-0764-MLM-E	PCW
Respondent	Laura Smith			
Case ID No.	60883			
Reg. Ent. Reference No.	RN110730223			
Media	Municipal Solid Waste			
Enf. Coordinator	Stephanie McCurley			

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

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 10-Jun-2021 Respondent Laura Smith Case ID No. 60883 Reg. Ent. Reference No. RN110730223 Media Municipal Solid Waste Enf. Coordinator Stephanie McCurley	Docket No. 2021-0764-MLM-E PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>															
Violation Number 1																
Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)																
Violation Description Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 2,000 scrap tires and 40 cubic yards of waste including 3 sofas, 13 mattresses, and 4 cubic yards of plastic bottles and containers were disposed of at the Site. 																
Base Penalty \$25,000																
>> Environmental, Property and Human Health Matrix																
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;"></th> <th style="width: 25%;">Release</th> <th style="width: 25%;">Major</th> <th style="width: 25%;">Moderate</th> <th style="width: 25%;">Minor</th> </tr> </thead> <tbody> <tr> <td>Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Release	Major	Moderate	Minor	Actual			x		Potential				
		Release	Major	Moderate	Minor											
	Actual			x												
Potential																
Percent 50.0%																
>> Programmatic Matrix																
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Falsification</th> <th style="width: 25%;">Major</th> <th style="width: 25%;">Moderate</th> <th style="width: 25%;">Minor</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Falsification	Major	Moderate	Minor											
	Falsification	Major	Moderate	Minor												
Percent 0.0%																
Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.																
Adjustment \$12,500																
\$12,500																
Violation Events																
<table style="width: 100%;"> <tr> <td style="width: 40%;">Number of Violation Events</td> <td style="width: 10%; text-align: center;">3</td> <td style="width: 10%; text-align: center;">65</td> <td style="width: 40%;">Number of violation days</td> </tr> </table>		Number of Violation Events	3	65	Number of violation days											
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daily																
weekly																
monthly	x															
quarterly																
semiannual																
annual																
single event																
Violation Base Penalty \$37,500																
Three monthly events are recommended from the April 6, 2021 investigation start date to the June 10, 2021 screening date.																
Good Faith Efforts to Comply																
0.0% Reduction \$0																
<table style="width: 100%;"> <tr> <td style="width: 30%;"></td> <td style="width: 30%;">Before NOE/NOV</td> <td style="width: 40%;">NOE/NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td></td> </tr> </table>			Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x				
	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 \$37,500																
Economic Benefit (EB) for this violation																
Statutory Limit Test																
<table style="width: 100%;"> <tr> <td style="width: 40%;">Estimated EB Amount</td> <td style="width: 20%; text-align: center;">\$1,624</td> <td style="width: 40%;">Violation Final Penalty Total</td> <td style="width: 20%; text-align: center;">\$37,500</td> </tr> </table>		Estimated EB Amount	\$1,624	Violation Final Penalty Total	\$37,500											
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This violation Final Assessed Penalty (adjusted for limits) \$37,500																

Economic Benefit Worksheet

Respondent Laura Smith
Case ID No. 60883
Reg. Ent. Reference No. RN110730223
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	\$547	28-Feb-2019	28-Mar-2022	3.08	\$84	n/a	\$84
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	28-Feb-2019	28-Mar-2022	3.08	\$1,540	n/a	\$1,540

Notes for DELAYED costs

Estimated delayed cost to properly dispose of the MSW (\$547) and scrap tires (\$10,000 at a cost of \$5 per tire) at the Site, and dispose of them at an authorized facility. The Dates Required are the initial investigation date and the Final Dates are 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

\$10,547

TOTAL

\$1,624



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	3-Jun-2021	Screening	10-Jun-2021	EPA Due	
	PCW	16-Nov-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Laura Smith
Reg. Ent. Ref. No.	RN110730223
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	60883	No. of Violations	1
Docket No.	2021-0764-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	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	\$3,750
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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 \$8
Estimated Cost of Compliance \$50

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,750
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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:

Final Penalty Amount \$3,750

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,750
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DEFERRAL		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	\$3,750
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Screening Date	10-Jun-2021	Docket No.	2021-0764-MLM-E	PCW
Respondent	Laura Smith			
Case ID No.	60883			
Reg. Ent. Reference No.	RN110730223			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Stephanie McCurley			

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

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	10-Jun-2021	Docket No.	2021-0764-MLM-E	PCW
Respondent	Laura Smith	Policy Revision 5 (January 28, 2021)		
Case ID No.	60883	PCW Revision February 11, 2021		
Reg. Ent. Reference No.	RN110730223			
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Stephanie McCurley			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 335.4			
Violation Description	Caused, suffered, allowed, or permitted the unauthorized disposal of industrial hazardous waste ("IHW"). Specifically, one cathode ray tube ("CRT") monitor was disposed of on the ground at the Site.			
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 that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$21,250
\$3,750	

Violation Events

Number of Violation Events	1	65	Number of violation days
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	daily				
	weekly				
	monthly				
	quarterly	x			
	semiannual				
	annual				
	single event				

Violation Base Penalty	\$3,750
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One quarterly event is recommended from the April 6, 2021 investigation start date to the June 10, 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.
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Violation Subtotal	\$3,750
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$8		Statutory Limit Test		
			Violation Final Penalty Total	\$3,750	
			This violation Final Assessed Penalty (adjusted for limits)	\$3,750	

Economic Benefit Worksheet

Respondent Laura Smith
Case ID No. 60883
Reg. Ent. Reference No. RN110730223
Media Industrial and Hazardous 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	\$50	28-Feb-2019	28-Mar-2022	3.08	\$8	n/a	\$8
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	<p>Estimated delayed cost to properly dispose of all IHW, including the CRT monitor, at the Site at an authorized facility. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.</p>						

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 \$50

TOTAL \$8

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 CN605636356, RN110730223, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605636356, Laura Smith **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN110730223, 926 Stevens Ranch Road **Classification:** UNCLASSIFIED **Rating:** -----

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

CH Group: 14 - Other

Location: 926 Stevens Ranch Road in Banders, Bandera County, Texas

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):
INDUSTRIAL AND HAZARDOUS WASTE NONPERMITTED ID NUMBER R13110730223 **MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER** R13110730223

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

Date Compliance History Report Prepared: June 03, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 03, 2016 to June 03, 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
LAURA SMITH;
RN110730223

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2021-0764-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Laura Smith ("Respondent") under the authority of TEX. WATER CODE ch. 7, and TEX HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by William DuFour of the law firm William Dufour & Associates, PLLC together stipulate that:

1. Respondent owns real property located at 926 Stevens Ranch Road in Bandera, Bandera County, Texas (the "Site"). The Site contains and/or involves the management of municipal solid waste ("MSW"), and industrial hazardous waste ("IHW") including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that 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 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$41,250 is assessed by the Commission in settlement of the violations alleged in Section II. The Revenue Operations Section of TCEQ's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay all or part of the penalty and qualifies for a deferral of all or part of the penalty under TEX. WATER CODE § 7.034 . Therefore, \$40,050 of the penalty is deferred contingent upon 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 contained in this Order.

Respondent paid \$100 of the \$1,200 undeferred penalty. The remaining amount of \$1,100 of the undeferred penalty shall be paid in 11 monthly payments of \$100 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 Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by 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 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.

II. ALLEGATIONS

1. During an investigation conducted on April 6, 2021 through April 8, 2021, an investigator documented that Respondent:
 - a. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c). Specifically, approximately 2,000 scrap tires, and 40 cubic yards of waste, including 3 sofas, 13 mattresses, and 4 cubic yards of plastic bottles and containers were disposed of at the Site; and
 - b. Caused, suffered, allowed, or permitted the unauthorized disposal of IHW, in violation of 30 TEX. ADMIN. CODE § 335.4. Specifically, one cathode ray tube ("CRT") monitor was observed on the ground at the Site.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and 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 actions 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: Laura Smith, Docket No. 2021-0764-MLM-E" to:

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

2. Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, cease disposing of any additional MSW or IHW, including scrap tires, at the Site;
- b. Within 90 days of the effective date of this Order, remove all IHW, including the CRT monitor, and MSW, including scrap tires, from the Site and properly dispose of it at authorized facilities; and
- c. Within 105 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

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

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

and:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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 Respondent.
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 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.
6. 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.
7. This Order, issued by the Commission, shall not be admissible against 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 TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ 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

Erin E. Chanallop

For the Executive Director

7/15/24

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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Laura Smith by Will C. M.
Signature - Laura Smith
144 Timber Lane
Bandera, Texas 78003
Atty of Recd

March 8, 2024

Date

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