

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60840
Jimmy Ray Bland dba Bland Crushing and Salvage Facility
RN111005716
Docket No. 2021-0781-MSW-E

Order Type:
Default Order

Media:
MSW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
0.3 miles North of Fishtrap Road on Collins Road, Denton, Denton County

Type of Operation:
auto crushing and scrap tire storage facility

Other Significant Matters:
Additional Pending Enforcement Actions: Yes, 2023-0200-MSW-E
Past-Due Penalties: \$7,812.50
Past-Due Fees: \$1,327.88
Other: None
Interested Third Parties: None

Texas Register Publication Date: December 15, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$79,779

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$79,779

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

Major Source: PCW 1 of 2: Yes; PCW 2 of 2: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: September 24 - September 30, 2020; April 1, 2021

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

Date(s) of NOE(s): May 21, 2021

Violation Information

1. Failed to obtain a scrap tire storage registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers [TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE §§ 328.56(d)(2), 328.59(b)(1), and 328.60(a)].
2. Failed to maintain a complete record in the form of a five-part manifest of each individual load of used or scrap tires or tire pieces transported from the Facility [30 TEX. ADMIN. CODE §§ 328.58(a) and 328.62(c)]. Also, failed to notify the appropriate commission regional office of any transporter or authorized scrap tire facility that fails to complete the manifest, alters the generator portion of the manifest, or fails to return the manifest within three months after the off-site transportation of the used or scrap tires or tire pieces [30 TEX. ADMIN. CODE § 328.58(e)].
3. Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks [30 TEX. ADMIN. CODE § 328.56(d)(4)].
4. Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(a) and (c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

Respondent no longer owns the Facility as of July 2, 2021.

Litigation Information

Date Petition(s) Filed: September 1, 2023; October 5, 2023
Date(s) of Service: Unclaimed; Unclaimed
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Taylor Pearson, 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) 239-1756
TCEQ Regional Contact: Erin Gorman, Dallas/Fort Worth Regional Office, (817) 588-5800
Respondent Contact: Jimmy Ray Bland, 845 Stonecrest Road, Argyle, Texas 78226-5821
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	24-May-2021	Screening	3-Jun-2021	EPA Due	
	PCW	28-Aug-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	Jimmy Ray Bland
Reg. Ent. Ref. No.	RN111005716
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	60840	No. of Violations	3
Docket No.	2021-0781-MSW-E	Order Type	Findings
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Waste Tires	Enf. Coordinator	Karolyn Kent
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$17,000
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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	5.0% Adjustment	Subtotals 2, 3, & 7	\$850
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Notes: Enhancement for one NOV with same/similar violations.

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: \$11,367
 Estimated Cost of Compliance: \$11,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$17,850
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OTHER FACTORS AS JUSTICE MAY REQUIRE	67.3% Adjustment	\$12,013
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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 Nos. 1, 2, and 3.

Final Penalty Amount	\$29,863
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$29,863
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$29,863
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Screening Date	3-Jun-2021	Docket No.	2021-0781-MSW-E	PCW
Respondent	Jimmy Ray Bland			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	60840			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111005716			
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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 5%

Screening Date 3-Jun-2021	Docket No. 2021-0781-MSW-E	PCW
Respondent Jimmy Ray Bland		<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No. 60840		<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No. RN111005716		
Media Municipal Solid Waste		
Enf. Coordinator Karolyn Kent		

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 328.56(d)(2), 328.59(b)(1), and 328.60(a) and Tex. Health & Safety Code § 361.112(a)

Violation Description
Failed to obtain a scrap tire storage site registration for the Facility, prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers. Specifically, approximately 4,845 scrap tires were stored on the ground at the Facility without a scrap tire storage site registration.

Base Penalty

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	X	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="20.0%"/>

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Three monthly events are recommended from the April 1, 2021 investigation date to the June 3, 2021 screening date.

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	<input type="text"/>

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Jimmy Ray Bland
Case ID No. 60840
Reg. Ent. Reference No. RN111005716
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$10,000	30-Sep-2020	3-Jun-2021	0.67	\$334	\$10,000	\$10,334
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to obtain a scrap tire storage site registration for the Facility. The Date Required is the initial investigation end date, and the Final Date is the screening date.

Approx. Cost of Compliance	\$10,000	TOTAL	\$10,334
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Screening Date	3-Jun-2021	Docket No.	2021-0781-MSW-E	PCW
Respondent	Jimmy Ray Bland			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	60840			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111005716			
Media	Municipal Solid Waste			
Enf. Coordinator	Karolyn Kent			

Violation Number

Rule Cite(s)

Violation Description

Failed to maintain a complete record in the form of a five-part manifest of each individual load of used or scrap tires or tire pieces transported from the Facility. Specifically, part 5 and the driver's license number required in part 2 of the five-part manifest form were not completed. Also, failed to notify the appropriate commission regional office of any transporter or authorized scrap tire facility that fails to complete the manifest, alters the generator portion of the manifest, or fails to return the manifest within three months after the off-site transportation of the used or scrap tires or tire pieces. Specifically, the Respondent had not received completed manifests from a transporter and did not notify the appropriate commission regional office.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="X"/>	<input type="text" value="1.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="X"/>	

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Jimmy Ray Bland
Case ID No. 60840
Reg. Ent. Reference No. RN111005716
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs							
	\$25	30-Sep-2020	3-Jun-2021	0.67	\$1	\$25	\$26
Other (as needed)	\$500	30-Sep-2020	3-Jun-2021	0.67	\$17	\$500	\$517
Other (as needed)	\$100	30-Sep-2020	3-Jun-2021	0.67	\$3	\$100	\$103

Notes for AVOIDED costs

Estimated avoided cost to notify the appropriate commission office after a transporter fails to return a manifest for the off-site transportation of used or scrap tires or tire pieces (\$25), to develop and implement procedures to ensure that manifests of each individual load of used or scrap tires or tire pieces transported from the Facility are fully completed (\$500), and estimated delayed cost to develop and implement a process for notifying the appropriate commission office timely after a transporter fails to return a manifest for the off-site transportation of used or scrap tires or tire pieces (\$100). The Dates Required are the initial investigation end date, and the Final Dates are the estimated date of compliance.

Approx. Cost of Compliance

\$625

TOTAL

\$646

Screening Date	3-Jun-2021	Docket No.	2021-0781-MSW-E	PCW
Respondent	Jimmy Ray Bland			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	60840			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111005716			
Media	Municipal Solid Waste			
Enf. Coordinator	Karolyn Kent			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="7.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Jimmy Ray Bland
Case ID No. 60840
Reg. Ent. Reference No. RN111005716
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$1,000	30-Sep-2020	3-Jun-2021	0.67	\$33	\$1,000	\$1,033
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to establish a vector control program for tires stored outside at the Facility. The Date Required is the initial investigation end date, and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,033



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	24-May-2021	Screening	3-Jun-2021	EPA Due	
	PCW	25-Aug-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	Jimmy Ray Bland
Reg. Ent. Ref. No.	RN111005716
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60840	No. of Violations	1
Docket No.	2021-0781-MSW-E	Order Type	Findings
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Waste Tires	Enf. Coordinator	Karolyn Kent
		EC's Team	Enforcement Team 3
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	5.0% Adjustment	Subtotals 2, 3, & 7	\$1,875
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Notes: Enhancement for one NOV with same/similar violations.

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: \$10,541
 Estimated Cost of Compliance: \$10,200
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$39,375
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OTHER FACTORS AS JUSTICE MAY REQUIRE	26.8% Adjustment	\$10,541
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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 the violation.

Final Penalty Amount	\$49,916
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$49,916
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$49,916
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Screening Date	3-Jun-2021	Docket No.	2021-0781-MSW-E	PCW
Respondent	Jimmy Ray Bland			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	60840			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111005716			
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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 5%

Screening Date	3-Jun-2021	Docket No.	2021-0781-MSW-E	PCW	
Respondent	Jimmy Ray Bland			<i>Policy Revision 5 (January 28, 2021)</i>	
Case ID No.	60840			<i>PCW Revision February 11, 2021</i>	
Reg. Ent. Reference No.	RN111005716				
Media	Municipal Solid Waste				
Enf. Coordinator	Karolyn Kent				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 330.15(a) and (c)				
Violation Description	<p>Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, soil samples taken from the oily stained area near the vehicle crushing area and the used oil tank located at the northwest portion of the Facility totaling approximately 400 square feet contained the following exceedances: total petroleum hydrocarbon ("TPH") chains C6-C12 of up to 3,600 milligrams per kilogram ("mg/kg"), exceeding the background level which reported "non-detect"; TPH chains C12-C28 of up to 100,000 mg/kg, exceeding the background level of 12,000 mg/kg; TPH chains C28-C35 of up to 37,000 mg/kg, exceeding the background level of 4,900 mg/kg; benzene concentrations of up to 9.5 mg/kg, exceeding the Tier 1 Residential Protective Concentration Level ("PCL") of .026 mg/kg for benzene; ethylbenzene concentrations of up to 20 mg/kg, exceeding the Tier 1 Residential PCL of 7.6 mg/kg for ethylbenzene; toluene concentrations of up to 94 mg/kg, exceeding the Tier 1 Residential PCL of 8.2 mg/kg for toluene; and xylene concentrations of up to 200 mg/kg, exceeding the Tier 1 Residential PCL of 120 mg/kg for xylene, respectfully.</p>				
	Base Penalty	\$25,000			
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			
		Major	Moderate	Minor	
	Actual	X			
	Potential				Percent 50.0%
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
					Percent 0.0%
Matrix Notes	Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.				
	Adjustment	\$12,500			
		\$12,500			
Violation Events					
	Number of Violation Events	3	63	Number of violation days	
	daily				
	weekly				
	monthly	X			
	quarterly				
	semiannual				
	annual				
	single event				
	Violation Base Penalty	\$37,500			
	Three monthly events are recommended from the April 1, 2021 investigation date to the June 3, 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	\$37,500			
Economic Benefit (EB) for this violation					
	Estimated EB Amount	\$10,541		Violation Final Penalty Total	
				\$49,916	
	This violation Final Assessed Penalty (adjusted for limits)			\$49,916	

Economic Benefit Worksheet

Respondent Jimmy Ray Bland
Case ID No. 60840
Reg. Ent. Reference No. RN111005716
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$200	30-Sep-2020	3-Jun-2021	0.67	\$7	\$200	\$207
Other (as needed)	\$10,000	30-Sep-2020	3-Jun-2021	0.67	\$334	\$10,000	\$10,334

Notes for AVOIDED costs

Estimated avoided cost to clean up and remove all contaminated soils from the Facility and dispose of it at an authorized Facility using appropriate corrective measures (\$200) and to submit a report demonstrating the applicability of the Texas Risk Reduction Program ("TRRP") to the Executive Director, and to comply with all applicable requirements of TRRP (\$10,000). The Dates Required are the initial investigation end date, and the Final Dates are the screening date.

Approx. Cost of Compliance

\$10,200

TOTAL

\$10,541

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 CN605442888, RN111005716, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605442888, Jimmy Ray Bland **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN111005716, Bland Crushing and Salvage Facility **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 0.3 miles North of Fishtrap Road on Collins Road, Denton, Denton County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
WATER QUALITY NON-PERMITTED ID NUMBER R04111005716 **MUNICIPAL SOLID WASTE NON-PERMITTED ID NUMBER** R04111005716

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

Date Compliance History Report Prepared: June 02, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 02, 2016 to June 02, 2021

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Hailey Johnson **Phone:** (512) 239-1756

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five-year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 11/23/2020 (1678158)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 328, SubChapter F 328.56(d)(4)
Description: Failure to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 328, SubChapter F 328.56(a)(1)
30 TAC Chapter 328, SubChapter F 328.56(d)(2)
30 TAC Chapter 328, SubChapter F 328.59(a)

Description: 30 TAC Chapter 328, SubChapter F 328.60(a)
Failure to register as a scrap tire storage site for the storage of greater than 500 used or scrap tires on the ground.

Self Report? NO Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 330, SubChapter A 330.15(a)
30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Failure to prevent an unauthorized discharge.

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
JIMMY RAY BLAND
DBA BLAND CRUSHING AND
SALVAGE FACILITY;
RN111005716**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2021-0781-MSW-E

On _____, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered the Executive Director’s Second Amended Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Jimmy Ray Bland dba Bland Crushing and Salvage Facility (“Respondent”).

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

FINDINGS OF FACT

1. Respondent owned an auto crushing and scrap tire storage facility located 0.3 miles North of Fishtrap Road on Collins Road in Denton, Denton County, Texas (the “Facility”). The Facility involves or involved the management of municipal solid waste (“MSW”), including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During investigations conducted on September 24, 2020 through September 30, 2020, and April 1, 2021, an investigator documented that Respondent:
 - a. Failed to obtain a scrap tire storage registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers. Specifically, approximately 4,845 scrap tires were stored on the ground at the Facility without a scrap tire storage site registration;
 - b. Failed to maintain a complete record in the form of a five-part manifest of each individual load of used or scrap tires or tire pieces transported from the Facility. Specifically, part 5 and the driver’s license number required in part 2 of the five-part manifest form were not completed. Also, failed to notify the appropriate commission regional office of any transporter or authorized scrap tire facility that fails to complete the manifest, alters the generator portion of the manifest, or fails to return the manifest within three months after the off-site transportation of the used or scrap tires or tire pieces. Specifically, Respondent had not received completed manifests from a transporter and did not notify the appropriate commission regional office;
 - c. Failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks. Specifically, the 4,845 tires stored outside were not being monitored for vectors and insect activity was observed; and
 - d. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, soil samples taken from the oily stained area near the vehicle crushing area and the used oil tank located at the northwest portion of the Facility totaling approximately 400 square feet contained the following exceedances: total petroleum hydrocarbon (“TPH”) chains C6-C12 of up to 3,600 milligrams per

kilogram (“mg/kg”), exceeding the background level which reported “non-detect”; TPH chains C12-C28 of up to 100,000 mg/kg, exceeding the background level of 12,000 mg/kg; TPH chains C28-C35 of up to 37,000 mg/kg, exceeding the background level of 4,900 mg/kg; benzene concentrations of up to 9.5 mg/kg, exceeding the Tier 1 Residential Protective Concentration Level (“PCL”) of .026 mg/kg for benzene; ethylbenzene concentrations of up to 20 mg/kg, exceeding the Tier 1 Residential PCL of 7.6 mg/kg for ethylbenzene; toluene concentrations of up to 94 mg/kg, exceeding the Tier 1 Residential PCL of 8.2 mg/kg for toluene; and xylene concentrations of up to 200 mg/kg, exceeding the Tier 1 Residential PCL of 120 mg/kg for xylene, respectively.

3. The Executive Director recognizes that Respondent no longer owns the Facility as of July 2, 2021.
4. The Executive Director filed the “Executive Director’s Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Jimmy Ray Bland dba Bland Crushing and Salvage Facility” (the “EDSARP”) in the TCEQ Chief Clerk’s office on September 1, 2023.
5. The EDSARP was mailed to Respondent’s last known address on September 1, 2023, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDSARP sent by certified mail as “unclaimed.”
6. The Executive Director re-filed the EDSARP in the TCEQ Chief Clerk’s office on October 5, 2023.
7. By letter dated October 5, 2023, sent to Respondent’s last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDSARP. The United States Postal Service returned the EDSARP sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that Respondent received notice of the EDSARP.
8. More than 20 days have elapsed since Respondent received notice of the EDSARP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain a scrap tire storage registration for the Facility, prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, in violation of TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN. CODE §§ 328.56(d)(2), 328.59(b)(1), and 328.60(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to maintain a complete record in the form of a five-part manifest of each individual load of used or scrap tires or tire pieces transported from the Facility, in violation of 30 TEX. ADMIN. CODE §§ 328.58(a) and 328.62(c). Also, failed to notify the appropriate commission regional office of any transporter or authorized scrap tire facility that fails to complete the manifest, alters the generator portion of the manifest, or fails to return the manifest within three months after the off-site transportation of the used or scrap tires or tire pieces, in violation of 30 TEX. ADMIN. CODE § 328.58(e).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to monitor tires stored outside for vectors and utilize appropriate vector control measures at least once every two weeks, in violation of 30 TEX. ADMIN. CODE § 328.56(d)(4).

5. As evidenced by Finding of Fact No. 2.d., Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c).
6. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
7. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of \$79,779 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$79,779 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Jimmy Ray Bland dba Bland Crushing and Salvage Facility; Docket No. 2021-0781-MSW-E" to:

Financial Administration Division
Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. All relief not expressly granted in this Order is denied.
4. The provisions of 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF TAYLOR W. PEARSON

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Jimmy Ray Bland dba Bland Crushing and Salvage Facility' (the "EDSARP") was filed in the TCEQ Chief Clerk's office on September 1, 2023.

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On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDSARP was re-filed in the TCEQ Chief Clerk's office on October 5, 2023.

The EDSARP was mailed to Respondent's last known address on October 5, 2023, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDSARP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDSARP in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Respondent received notice of the EDSARP. Respondent failed to file an answer and failed to request a hearing."

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

Executed in Travis County,
State of Texas,
on the 21st day of November, 2023

A handwritten signature in blue ink that reads "Taylor W. Pearson".

Declarant