

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel
Tracy Gross, Assistant General Counsel

js **Thru:** Clayton Smith, Acting Senior Attorney
Litigation Division

WH **From:** William Hogan, Staff Attorney
Litigation Division

Date: January 12, 2024

Subject: Backup Revision
January 24, 2024 Commission Agenda
Draft Item No. 11 - Juan Maltos
Docket No. 2021-0789-MSW-E

Enclosed please find the following:

Page 3 of the Agreed Order:

Correction of a typographical error in the second paragraph (Ordering Provision No. 2.d) from "Ordering Provision No. 2.i." to "Ordering Provision No. 2.h."

Respondent Contact:

Juan Maltos
P.O. Box 582
Big Lake, Texas 76932-0582

Please do not hesitate to call William Hogan at (512) 239-5918 if you have any questions regarding this matter.

cc: Karolyn Kent, Enforcement Division
Cain Cline, San Angelo Regional Office
Gill Valls, Office of the General Counsel
Michael Parrish, Enforcement Division
Leslie Gann, Enforcement Division
Stuart Beckley, Enforcement Division

- c. Within 45 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 2.h., to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.
- d. Within 90 days after the effective date of this Order, conduct an investigation to determine whether response actions at the Site are necessary under the Texas Risk Reduction Program ("TRRP"), codified in 30 TEX. ADMIN. CODE ch. 350, and submit the investigation results to the Executive Director, via the Order Compliance Team, to the address provided in Ordering Provision No. 2.h. The investigation results shall be accompanied by supporting documents and a certification as described in Ordering Provision No. 2.h.
- e. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ.
- f. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, Respondent shall submit, by the deadline prescribed by the Executive Director, an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Order Compliance Team at the address listed in Ordering Provision No. 2.h., and to any additional addresses as directed by the Executive Director.
- g. If the Executive Director determines that the APAR indicates that additional response actions are necessary:
 - i. Respondent shall comply with and perform, by the deadline(s) prescribed by the Executive Director, all applicable requirements of TRRP, which may include plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and institutional controls under Subchapter F (30 TEX. ADMIN. CODE § 350.111); and
 - ii. Respondent shall submit, by the deadline prescribed by the Executive Director, written certification in accordance with Ordering Provision No. 2.h., to demonstrate compliance with Ordering Provision No. 2.g.i.
- h. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, shall be signed by the Respondent, and shall include the following certification language:

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

The written certifications 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

- c. Within 45 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 2.h., to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.
- d. Within 90 days after the effective date of this Order, conduct an investigation to determine whether response actions at the Site are necessary under the Texas Risk Reduction Program ("TRRP"), codified in 30 TEX. ADMIN. CODE ch. 350, and submit the investigation results to the Executive Director, via the Order Compliance Team, to the address provided in Ordering Provision No. 2.h. The investigation results shall be accompanied by supporting documents and a certification as described in Ordering Provision No. 2.h.
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- f. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, Respondent shall submit, by the deadline prescribed by the Executive Director, an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Order Compliance Team at the address listed in Ordering Provision No. 2.h., and to any additional addresses as directed by the Executive Director.
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 - ii. Respondent shall submit, by the deadline prescribed by the Executive Director, written certification in accordance with Ordering Provision No. 2.h., to demonstrate compliance with Ordering Provision No. 2.g.i.
- h. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, shall be signed by the Respondent, and shall include the following certification language:

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The written certifications 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

Juan Maltos
 RN111245551
 Docket No. 2021-0789-MSW-E

Order Type:
 Agreed Order

Media:
 MSW

Small Business:
 N/A

Location(s) Where Violation(s) Occurred:
 North of the terminus of Hughes Road, Big Lake, Reagan County (the “Site”)

Type of Operation:
 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: December 1, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,500

Total Paid to General Revenue: \$355

Total Due to General Revenue: \$12,145

Payment Plan: 35 payments of \$347 each

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): February 11, 2021; February 25, 2021
Complaint Information: The Texas Commission on Environmental Quality (TCEQ) received a complaint alleging an unauthorized activity.

Date(s) of Investigation: February 26, 2021

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

Date(s) of NOE(s): May 17, 2021

Juan Maltos
RN111245551
Docket No. 2021-0789-MSW-E

Violation Information

Caused, suffered, allowed, or permitted the unauthorized disposal of MSW [30 TEX. ADMIN. CODE § 330.15(a) and (c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately, cease the unauthorized disposal of additional MSW at the Site, including charred vehicles and scrap tires.
2. Within 30 days:
 - a. Remove all MSW, including charred vehicles and scrap tires, from the Site and dispose of them at an authorized facility; and
 - b. Clean up and remove all stained soils from the Site and dispose of them at an authorized facility using appropriate corrective measures.
3. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1 and 2.
4. Within 90 days conduct an investigation to determine whether response actions at the Site are necessary under the Texas Risk Reduction Program ("TRRP") and submit the investigation results to the Executive Director. The investigation results shall be accompanied by supporting documents and a certification.
5. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ.
6. If the Executive Director determines that response actions are necessary, Respondent shall submit, by the deadline prescribed by the Executive Director, an Affected Property Assessment Report ("APAR") to the Order Compliance Team and to any additional addresses as directed by the Executive Director.
7. If the Executive Director determines that the APAR indicates that additional response actions are necessary:
 - a. Respondent shall comply with and perform, by the deadline prescribed by the Executive Director, all applicable requirements of TRRP, which may include plans, reports, and notices under Subchapter E; financial assurance; and institutional controls under Subchapter F; and
 - b. Respondent shall submit, by the deadline prescribed by the Executive Director, written certification to demonstrate compliance with Technical Requirement No. 7.a.

Litigation Information

Date Petition(s) Filed: August 8, 2022
Date(s) of Service: August 11, 2022
Settlement Date: July 5, 2023

Juan Maltos
RN111245551
Docket No. 2021-0789-MSW-E

Contact Information

TCEQ Attorneys: William Hogan, 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: Elijah Gandee, Austin Regional Office, (512) 339-2929

Respondent Contact: Juan Maltos, PO Box 582, Big Lake, Texas 76932-0582

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	24-May-2021	Screening	17-Jun-2021	EPA Due	
	PCW	10-Nov-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	Juan Maltos
Reg. Ent. Ref. No.	RN111245551
Facility/Site Region	8-San Angelo
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	60910	No. of Violations	1
Docket No.	2021-0789-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		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	\$12,500
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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: \$2,770
 Estimated Cost of Compliance: \$53,928
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$12,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,500
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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	\$12,500
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Screening Date 17-Jun-2021

Docket No. 2021-0789-MSW-E

PCW

Respondent Juan Maltos

Policy Revision 5 (January 28, 2021)

Case ID No. 60910

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111245551

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 17-Jun-2021
Respondent Juan Maltos
Case ID No. 60910
Reg. Ent. Reference No. RN111245551
Media Municipal Solid Waste
Enf. Coordinator Karolyn Kent

Docket No. 2021-0789-MSW-E

PCW

Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 2021

Violation Number 1

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

Violation Description

Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, 710 scrap tires and 15 cubic yards of other MSW consisting of two charred vehicles were disposed of at the Site. Additionally, soil samples taken near the vehicles indicated discharges that exceeded background levels of arsenic, barium, chromium, cobalt, copper, nickel, vanadium, and zinc. In addition to these, the area sample indicated 146 micrograms per kilogram (ug/kg) of acetone, 0.93 ug/kg of benzene, and 41 ug/kg of methyl ethyl ketone, while the sample from the vehicles site indicated 641 ug/kg of total xylene, 12,300 ug/kg of 2-methylnaphthalene, 12,400 ug/kg of naphthalene, and 188 milligrams per kilogram of total petroleum hydrocarbons (C6-C35).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		X		50.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants 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

Number of Violation Events 1 99 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	X
annual	
single event	

Violation Base Penalty \$12,500

One semiannual event is recommended from the March 10, 2021 investigation end date to the June 17, 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 \$12,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,770

Violation Final Penalty Total \$12,500

This violation Final Assessed Penalty (adjusted for limits) \$12,500

Economic Benefit Worksheet

Respondent Juan Maltos
Case ID No. 60910
Reg. Ent. Reference No. RN111245551
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	\$50,000	10-Mar-2021	20-Mar-2022	1.03	\$2,568	n/a	\$2,568
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,928	10-Mar-2021	20-Mar-2022	1.03	\$202	n/a	\$202

Notes for DELAYED costs

Estimated delayed cost to remove 710 scrap tires and 15 cubic yards of MSW from the Site and dispose of them at an authorized disposal facility (approximately \$378 for MSW, and \$5 per tire), and to conduct the affected property assessment (\$50,000). Dates Required are the investigation end 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 \$53,928

TOTAL \$2,770

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 CN605880590, RN111245551, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605880590, Juan Maltos **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN111245551, Parcels 4286 and 4287 **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: north of the terminus of Hughes Road, Big Lake, Reagan County, Texas 76932

TCEQ Region: REGION 08 - SAN ANGELO

ID Number(s):
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER
R08111245551

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

Date Compliance History Report Prepared: August 04, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 04, 2016 to August 04, 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.):

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
JUAN MALTOS;
RN111245551

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2021-0789-MSW-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 Juan Maltos ("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 together stipulate that:

1. Respondent owns and operates a municipal solid waste ("MSW") disposal site located north of the terminus of Hughes Road near Big Lake, Reagan County, Texas (the "Site"). The Site contains and/or involves the management of MSW, 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 twelve thousand five hundred dollars (\$12,500.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred fifty-five dollars (\$355.00) of the penalty. The remaining amount of twelve thousand one hundred forty-five dollars (\$12,145.00) shall be paid in thirty-five (35) monthly payments of three hundred forty-seven dollars (\$347.00) 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 of this Order.
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. ALLEGATION

During an investigation commenced on February 26, 2021, an investigator documented that Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c). Specifically, 710 scrap tires and 15 cubic yards of other MSW consisting of two charred vehicles were disposed of at the Site.

III. DENIALS

Respondent generally denies the 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: Juan Maltos, Docket No. 2021-0789-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
2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, cease the unauthorized disposal of additional MSW at the Site, including charred vehicles and scrap tires.
 - b. Within 30 days after the effective date of this Order:
 - i. Remove all MSW, including charred vehicles and scrap tires, from the Site and dispose of them at an authorized facility; and
 - ii. Cleanup and remove all stained soils from the Site and dispose of them at an authorized facility using appropriate corrective measures.

- c. Within 45 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 2.h., to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.
- d. Within 90 days after the effective date of this Order, conduct an investigation to determine whether response actions at the Site are necessary under the Texas Risk Reduction Program ("TRRP"), codified in 30 TEX. ADMIN. CODE ch. 350, and submit the investigation results to the Executive Director, via the Order Compliance Team, to the address provided in Ordering Provision No. 2.i. The investigation results shall be accompanied by supporting documents and a certification as described in Ordering Provision No. 2.h.
- e. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the investigation results within 15 days after the date of such requests or by any other deadline specified in writing by the TCEQ.
- f. If the Executive Director determines that response actions pursuant to 30 TEX. ADMIN. CODE ch. 350 are necessary, Respondent shall submit, by the deadline prescribed by the Executive Director, an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Order Compliance Team at the address listed in Ordering Provision No. 2.h., and to any additional addresses as directed by the Executive Director.
- g. If the Executive Director determines that the APAR indicates that additional response actions are necessary:
 - i. Respondent shall comply with and perform, by the deadline(s) prescribed by the Executive Director, all applicable requirements of TRRP, which may include plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(l)); and institutional controls under Subchapter F (30 TEX. ADMIN. CODE § 350.111); and
 - ii. Respondent shall submit, by the deadline prescribed by the Executive Director, written certification in accordance with Ordering Provision No. 2.h., to demonstrate compliance with Ordering Provision No. 2.g.i.
- h. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, shall be signed by the Respondent, and shall include the following certification language:

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

The written certifications 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 Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7035

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. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
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. Chamalbor

For the Executive Director

December 22, 2023

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.

Juan M. Maltos

Signature - Juan Maltos
PO Box 582
Big Lake, Texas 76932-0582

July 5, 2023

Date

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