**Order Type:** Default Order

**Media:** MSW

**Small Business:** N/A

**Location(s) Where Violation(s) Occurred:** 5491 O'Leary Drive, near El Paso, El Paso County

# Type of Operation:

the management of municipal solid waste (MSW), including scrap tires (the "Site")

<b>Other Significant Matters:</b> Additional Pending Enforcement A Past-Due Penalties: Past-Due Fees: Other: Interested Third Parties:	Actions: None None None None None
<b>Texas Register Publication Date:</b>	September 29, 2023
Comments Received:	None
	Penalty Information
Total Penalty Assessed:	\$5,250
Total Paid to General Revenue:	\$0
Total Due to General Revenue:	\$5,250
<b>Compliance History Classifications</b> Person//CN (605893841) – Satisfa Site/RN – Satisfactory	<b>s:</b> ctory; CN (605893858) – Satisfactory
Major Source:	Yes
Statutory Limit Adjustment:	None
Applicable Penalty Policy:	January 28, 2021
	Investigation Information
Date(s) of Investigation:	April 29, 2021; August 4, 2021
Date(s) of NOV(s):	June 1, 2021
Date(s) of NOE(s):	August 13, 2021

### Violation Information

Failed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers [Tex. HEALTH & SAFETY CODE § 361.112(a) and 30 Tex. ADMIN. CODE § 328.60(a)].

### Corrective Actions/Technical Requirements

#### **Corrective Action(s) Completed:** None

### **Technical Requirements:**

- 1. Immediately cease storing any additional used and/or scrap tires at the Site until proper authorization is obtained.
- 2. Within 90 days reduce the number of scrap tires being stored at the Site to less than 500 on the ground or 2,000 used or scrap tires in enclosed and lockable containers, using a registered transporter and an authorized storage, processing, or disposal facility and maintaining manifests.
- 3. In lieu of Technical Requirement No. 2, within 180 days register the Site as a scrap tire storage facility.
- 4. Within 195 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1 and 2, or 1 and 3.

Date Petition(s) Filed:

March 30, 2023

Date(s) of Service: April 10, 2023

### **Contact Information**

**TCEQ Attorneys:** Erandi Ratnayake, 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: Ken Moller, Enforcement Division, (512) 239-6111

TCEQ Regional Contact: Kent Waggoner, P.G., El Paso Regional Office, (915) 834-4949

**Respondent Contact:** Jacob Martinez, 5491 O'Leary Drive, El Paso, Texas 79938

Respondent's Attorney: N/A

DATES       Assigned       23-Jug: 2021       EPA Due         RESPONDENT/FACILITY INFORMATION       Respondent [Jacob Martinez and Maria Chavira Respondent [Jacob Martinez and Maria Chavira Docket No. [2021-1246-MSW-E         CASE INFORMATION Media Program(s] Waster Triss       No. of Violations [ Government/Non-Portit No Enf. Coordinator Kam Niler Coordinator Kam Niler Coordinator Kam Niler Coordinator Kam Niler Coordinator Kam Niler Southora 2-7 an obtained by multiphysite trade lase Penalty Calculation Section         TOTAL BASE PENALTY (Sum of violation base penalty (Subtolat 1) by the indicated percentage. Compliance History       Subtotal 1       \$5,000         ADJUSTMENTS (+ /-) TO SUBTOTAL 1 Subtotal 2-7 an obtained by multiphysite trade lase Penalty (Subtotal 1) by the indicated percentage. Compliance History       Subtotal 4       \$00         Notes       Enhancement for one NOV with the same/similar violations.       Subtotal 5       \$30         Culpability       No       0.0% Enhancement *Capped at the Total E8 Amount Subtotal 5       \$40         SUM OF SUBTOTALS 1-7       Final Subtotal 5       \$00         Notes       Final Assessed Penalty Amount \$52,250	COMMISSION COMMISSION	Policy R	Pel evision 5 (January 28,	•	alculatio	n Worksh	neet (PC	-	vision February	, 11, 2021
PCW       6-Jan: 2023       Screening       1-Sep: 2021       EPA Due         RESPONDENT/FACILITY INFORMATION Respondent/Jacob Martinez and Maria Chavira Reg. Ent. Ref. No. [NII1126/7553       Maria Chavira Reg. Ent. Ref. No. [NII1126/7554       No. of Violations [ Docket No. 2021-1246-MSW-E         CASE INFORMATION Enf./Cost Region (E-EF 2850       Major/Minor Source[Major         CASE INFORMATION Enf./Cost No. 2021-1246-MSW-E       Order Type [.560         Government/Non-Profit No. Enf. Coordinator Kern Moller Ecf 3 Team Enforcement Team 3       ECf 3 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       \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1       Subtotal 1       \$5,000       Adjustment       Subtotal 2       \$3, & 7       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Subtotal 5       \$0         Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0       \$0       \$0         Subt SUBTOTALS 1-7       Final Subtotal 5       \$0       \$0       \$1,025       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal 5	DATES	Assigned	23-Aug-2021							
RESPONDENT/FACILITY INFORMATION         Reg. Ent. Ref. No. [R111267555]         Facility/Site Region (6-El Paso         Major/Minor Source [Major]         CASE INFORMATION         Enf./Case ID No. (61353)         Docket No. (2021-1246-MSW-E)         Media Program(s) Waste Tires         Multi-Media         Multi-Media         Admin. Penalty \$ Limit Minimum         \$0         Penalty Calculation Section         TOTAL BASE PENALTY (Sum of violation base penalties)         Subtotal 1         Subtotal 2         Subtotal 2         Admin. Penalty fully (Sum of violation base penalties)         Subtotal 2         Subtotal 3         Subtotal 4         Subtotal 5         Compliance History         Subtotal 5         Subtotal 5         Subtotal 5         Compliance History         Notes         Enhancement for one NOV with the same/similar violations.         Culpability       No         Notes       The Respondents do not meet the culpability criteria.         Good Faith Effort to Compliance 151.05         SUM OF SUBTOTALS 1-7       Final Panalty Amount \$5,250         Canomic Benefit       0.0% Chancement \$0.0% Adj				Screening	1-Sep-2021	EPA Due		1		
Respondent Jacob Martinez and Maria Chavira         Reg. Ent. Ref. No. RNI1267555         Facility/Site Region 6-El Paso         Major/Minor Source [Major]         CASE INFORMATION         Ent/Case ID No. 61353         Docket No. 2021-1246-MSW-E         Media Program(s)         Waste Tires         Multi-Media         Corporting Waste Tires         Government/Non-Profit         Admin. Penalty \$ Limit Minimum         \$0         Maximum         \$25,000         Penalty Calculation Section         TOTAL BASE PENALTY (Sum of violation base penalties)         Subtotal 1         Subtotal 2         Subtotal 3         Penalty Calculation Section         TOTAL BASE PENALTY (Sum of violation base penalty Gubtotal 1) by the indicated percentage.         Compliance History       5.0%         Adjustment       Subtotal 4         Subtotal 5       \$0         Notes       The Respondents do not mee										
Reg. Ent. Ref. No.       RN111267555         Pacility/Site Region (6-EI Paso       Major/Minor Source (Major         CASE INFORMATION Enf./Case ID No. (61353 Docket No. 2021:1246-MSW-E       No. of Violations I Order Type [660         Media Program (5)       Waste Tires       Defect No. 2021:1246-MSW-E         Media Program (5)       Waste Tires       Docket No. 2021:1246-MSW-E         Media Program (5)       Waste Tires       Enf. Coordinator Ken Moller Ec's Team Enforcement Team 3         Admin. Penalty & Limit Minimum       50       Maximum       \$25,000         TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1       \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1       Subtotal 5,7 ar obtained by multiphing the Total Base Penalty (Subtotal 1) by the indicated percentage.       Subtotals 2,7 ar obtained Provide Pr	RESPO									
Facility/Site Region       G-EI Paso       Major/Minor Source [Major         CASE INFORMATION       Enf. Case ID No. 13353       No. of Violations [160]         Docket No. 2021-1246-MSW-E       Order Type [160]         Media Program (s)       Waste Tires       Government/Non-Profit No         Multi-Media       Francement Team 3       Admin. Penalty \$ Limit Minimum \$0       Maximum \$25,000         Penalty Calculation Section       TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1 \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1       Subtotal 2 \$2,3,8,7       \$250         Subtotal 2-7 are obtained by multipying the Total Base Penalty (Subtotal 1) by the indicated percentage.       Compliance History       \$0,0% Adjustment         Subtotal 2-7 are obtained by multipying the Total Base Penalty (Subtotal 1) by the indicated percentage.       Subtotal 4 \$0         Notes       Enhancement for one NOV with the same/similar violations.       Culpability         Culpability       No       0.0% Enhancement \$ubtotal 5 \$0       \$0         Economic Benefit       0.0% Enhancement \$ubtotal 6 \$0       \$0       \$0         Edimated Cost of Compliance       \$15,365       \$Comped at the Total EB Amount \$5,250       \$Comped at the Total EB Amount \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal 9 \$5,250       \$Comped at the Total EB Amount \$5,250       \$Comped at the Tot	_	Respondent	Jacob Martinez a	nd Maria Cha	avira					
CASE INFORMATION       Enf./Case 1D No. (61353       No. of Violations         Enf./Case 1D No. (61353       Order Type 1660         Media Program(s)       Waste Tires       Order Type 1660         Multi-Media       Waste Tires       Government/Non-Profit No         Multi-Media       Subtotal 1       Enforcement Team 3         Admin. Penalty \$ Limit Minimum       S0       Maximum       \$25,000         Penalty Calculation Section       TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1       \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1       Subtotal 2       \$3,8.7       \$250         Subtotals 2-: are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.       Subtotals 2, 3, & 7       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Subtotal 5       \$0         Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         Culpability       No cost of Compliance Are Fordal EB § Amount       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal 1       \$0<										
Enf./Case ID No. [61353       No. of Violations [1         Docket No. 2021:1246-MSW-E       Order Type [660]         Media Program(5)       Waste Tirres         Multi-Media       Subtrained Control No.         Enf. Coordinator Ken Moller       Effect No.         Admin. Penalty \$ Limit Minimum       \$0       Maximum         \$25,000       Penalty Calculation Section         TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1         \$5,000       Subtotal 2       \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1       Subtotal 1) by the indicated percentage.       Subtotal 2, 3, & 7         Compliance History       5.0% Adjustment       Subtotal 2, 3, & 7       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0% Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Notes       Final Penalty Amount       \$5,250         STATUTORY LIMIT ADJUSTMENT       Final Assessed Penalty	Facili	ty/Site Region	6-El Paso			Major/M	inor Source	Major		
Enf./Case ID No. [61353       No. of Violations [1         Docket No. 2021:1246-MSW-E       Order Type [660]         Media Program(5)       Waste Tirres         Multi-Media       Subtrained Control No.         Enf. Coordinator Ken Moller       Effect No.         Admin. Penalty \$ Limit Minimum       \$0       Maximum         \$25,000       Penalty Calculation Section         TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1         \$5,000       Subtotal 2       \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1       Subtotal 1) by the indicated percentage.       Subtotal 2, 3, & 7         Compliance History       5.0% Adjustment       Subtotal 2, 3, & 7       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0% Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Notes       Final Penalty Amount       \$5,250         STATUTORY LIMIT ADJUSTMENT       Final Assessed Penalty	CASET									
Docket No.       2021-1246-MSW-E       Order Type [1660         Media Program (s)       Waste Tires       Government/Non-Profit       Sec Transmitter         Multi-Media       #       #       Government/Non-Profit       Sec Transmitter         Admin. Penalty \$ Limit Minimum       \$0       Maximum       \$25,000       EC's Team       Enforcement Team 3         Admin. Penalty \$ Limit Minimum       \$0       Maximum       \$25,000       EC's Team       Enforcement Team 3         Admin. Penalty \$ Limit Minimum       \$0       Maximum       \$25,000       EC's Team       Enforcement Team 3         Admin. Penalty \$ Limit Minimum       \$0       Maximum       \$25,000       Subtotal 1       \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1       Subtotal 0       Subtotal 1 by the indicated percentage.       Subtotal 2       \$,3, & 7       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Subtotal 5       \$0         Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0%       Admunt       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal       \$5,250 <t< td=""><td></td><td></td><td>61353</td><td></td><td></td><td>No. o</td><td>f Violations</td><td>1</td><td></td><td>1</td></t<>			61353			No. o	f Violations	1		1
Media Program(s)       Waste Tires       Government/Non-Profit Non-Enf. Coordinator Ken Moller         Multi-Media       \$0       Maximum       \$25,000         Admin. Penalty \$ Limit Minimum       \$0       Maximum       \$25,000         Penalty Calculation Section       Total Base Penalty (Subtolal 1) by the indicated percentage.       \$1000000000000000000000000000000000000				-F		10.0				
Multi-Media       Enf. Coordinator Ken Moller         Admin. Penalty \$ Limit Minimum       \$0       Maximum       \$25,000         Penalty Calculation Section         TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1       \$5,000         Admin. Penalty (Sum of violation base penalties)       Subtotal 1       \$5,000         ADJUSTMENTS (+ /-) TO SUBTOTAL 1         Subtotal 5:7 are obtained by multiplying the total Base Penalty (Subtotal 1) by the Indicated percentage.         Compliance History         Subtotal 2, 3, & 7         Subtotals 2, 3, & 7         Subtotals 2, 3, & 7         Subtotals 2, 3, & 7         Subtotal 4         Subtotal 4         Notes         Enhancement for one NOV with the same/similar violations.         Culpability         No       0.0%       Enhancement       Subtotal 5       \$0         Notes         Economic Benefit       0.0%       Adjustment       \$0         Subtotal 5 1-7       Final Subtotal 6       \$0         Final Penalty Amount       \$5,250         OTHER FACTORS AS JUSTICE MA	Med			<u> </u>		Government				
Admin. Penalty \$ Limit Minimum       \$0       Maximum       \$25,000         Penalty Calculation Section         TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1       \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1       Subtotal 2.7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.       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       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         Total EB amounts       \$1075       *Capped at the Total EB Amount       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal \$\$4,075       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Notes       \$0         SUM OF SUBTOTALS 1-7       Final Subtotal \$\$5,250       \$25         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0% Adjustment       \$0         Reduces the Final Penalty	Field		Waste mes				•			
Admin. Penalty \$ Limit Minimum       \$0       Maximum       \$25,000         Penalty Calculation Section         TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1       \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1         Subtotal 2.7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.         Compliance History         Subtotal 2.7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.         Compliance History         Notes         Enhancement for one NOV with the same/similar violations.         Culpability         No       0.0% Enhancement         Subtotal 4         \$0       Notes         Enhancement for one NOV with the same/similar violations.         Culpability         No       0.0% Enhancement         Subtotal 5       \$0         The Respondents do not meet the culpability criteria.         Subtotal 5         \$0       \$0% Enhancement*         Subtotal 6         \$0       \$0% Enhancement*         Subtotal 5         Subtotal 5									Team 3	
Penalty Calculation Section         TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1         ADJUSTMENTS (+/-) TO SUBBTOTAL 1         Subtotals 2.7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.         Compliance History       5.0% Adjustment         Subtotals 2.7, are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.         Compliance History       5.0% Adjustment         Subtotals 2.7, are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.         Culpability       No tes         Enhancement for one NOV with the same/similar violations.         Culpability       No         Notes       The Respondents do not meet the culpability criteria.         Good Faith Effort to Comply Total Adjustments       Subtotal 5         Economic Benefit       0.0% Enhancement*       Subtotal 6         SUM OF SUBTOTALS 1-7       Final Subtotal         Total EB Amounts       \$L075         Subtotal S - 20       Adjustment         Reduces or enhances the Final Subtotal by the indicated percentage.       Notes         Final Penalty Amount       \$5,250         STATUTORY LIMIT ADJUSTMENT       Final Assessed Penalty         Reduces the Final Assessed Penalty by the indicated percentage.       Reduction	Adr	nin. Penalty \$ I	.imit Minimum	\$0	Maximum	\$25,000				1
TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1       \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1       Subtotals 2- 3 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.       Compliance History       5.0% Adjustment       Subtotals 2, 3, & 7       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         Total EB Amounts       \$1,075       *Capped at the Total EB \$ Amount       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal 5       \$0         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0% Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Final Penalty Amount       \$5,250         DEFERRAL       Reduction       Adjustment       \$0         Reduces the Final Assessed Penalty by the indicated percentage.       Reduction       Adjustment       \$0         DEFERRAL       Reduction       Adjustment       \$0       \$0       \$0		<b>*</b> '		•						
TOTAL BASE PENALTY (Sum of violation base penalties)       Subtotal 1       \$5,000         ADJUSTMENTS (+/-) TO SUBTOTAL 1       Subtotals 2- 3 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.       Compliance History       5.0% Adjustment       Subtotals 2, 3, & 7       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         Total EB Amounts       \$1,075       *Capped at the Total EB \$ Amount       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal 5       \$0         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0% Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Final Penalty Amount       \$5,250         DEFERRAL       Reduction       Adjustment       \$0         Reduces the Final Assessed Penalty by the indicated percentage.       Reduction       Adjustment       \$0         DEFERRAL       Reduction       Adjustment       \$0       \$0       \$0				Donali	ty Calculat	tion Sectio	n			
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       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Image: Subtotal 4       \$0         Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         Yeaped at the Total EB Amounts       \$10.75       *Capped at the Total EB \$ Amount       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal       \$5,250         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0% Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Notes       Final Penalty Amount       \$5,250         DEFERRAL       Reduction       Adjustment       \$0       Reduction       Adjustment       \$0         Reduces the Final Assessed Penalty by the indicated percentage.       Notes       Percentage.       \$0       \$0         Deferral not offered for non-expedited settlement.       Deferral not offered for non-					•		511			
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       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Culpability       No       0.0% Enhancement       Subtotals 2, 3, & 7       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         Total EB Amounts       \$10,075       *Capped at the Total EB \$ Amount       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal       \$5,250         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0% Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Final Penalty Amount       \$5,250         STATUTORY LIMIT ADJUSTMENT       Final Assessed Penalty       \$5,250         DEFERRAL       Reduction       Adjustment       \$0         Reduces the Final Assessed Penalty by the indicated percentage.       Notes       Deferral not offered for non-expedited settlement.       \$0<	ΤΟΤΑ	L BASE PENA	LTY (Sum of	violation	base penal	ties)		Subtotal 1		\$5,000
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       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Culpability       No       0.0% Enhancement       Subtotals 2, 3, & 7       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         Total EB Amounts       \$10,075       *Capped at the Total EB \$ Amount       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal       \$5,250         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0% Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Final Penalty Amount       \$5,250         STATUTORY LIMIT ADJUSTMENT       Final Assessed Penalty       \$5,250         DEFERRAL       Reduction       Adjustment       \$0         Reduces the Final Assessed Penalty by the indicated percentage.       Notes       Deferral not offered for non-expedited settlement.    <		CTMENITO (		<b>TAI 4</b>						
Compliance History       5.0%       Adjustment       Subtotals 2, 3, & 7       \$250         Notes       Enhancement for one NOV with the same/similar violations.       Enhancement for one NOV with the same/similar violations.       \$000000000000000000000000000000000000	ADJU:	SUBTOTALS (+	/-) IO SUBIO	the Total Base	Penalty (Subtotal 1	) by the indicated n	ercentage			
Notes       Enhancement for one NOV with the same/similar violations.         Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 5       \$0         Total EB Amounts       \$1.075       *Capped at the Total EB \$ Amount       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal       \$5,250         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0% Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Notes       Final Penalty Amount       \$5,250         STATUTORY LIMIT ADJUSTMENT       Final Assessed Penalty       \$5,250       \$5,250         DEFERRAL       Reduction       Adjustment       \$0         Reduces the Final Assessed Penalty by the indicated percentage.       Reduction       Adjustment       \$0         Deferral not offered for non-expedited settlement.       Output the indicated percentage.       Image: Content the final Assessed Penalty by the indicated percentage.       Image: Content the final Assessed Penalty       \$1,275			1 11 3	the rotal base	, ,	, , , ,		tals 2, 3, & 7		\$250
Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         Total EB Amounts       \$1,075       *Capped at the Total EB \$ Amount       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal       \$5,250         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0%       Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Final Penalty Amount       \$5,250         STATUTORY LIMIT ADJUSTMENT       Final Assessed Penalty       \$5,250         DEFERRAL       Reduction       Adjustment       \$0         Reduces the Final Assessed Penalty by the indicated percentage.       Reduction       Adjustment       \$0         DEFERRAL       Reduction       Reduction       Adjustment       \$0         Notes       Deferral not offered for non-expedited settlement.       \$0		compliance in			5.0 /0	Aujustinent	54510			φ200
Culpability       No       0.0% Enhancement       Subtotal 4       \$0         Notes       The Respondents do not meet the culpability criteria.       Good Faith Effort to Comply Total Adjustments       Subtotal 5       \$0         Economic Benefit       0.0% Enhancement*       Subtotal 6       \$0         Total EB Amounts       \$1,075       *Capped at the Total EB \$ Amount       \$5,250         SUM OF SUBTOTALS 1-7       Final Subtotal       \$5,250         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0%       Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Final Penalty Amount       \$5,250         STATUTORY LIMIT ADJUSTMENT       Final Assessed Penalty       \$5,250         DEFERRAL       Reduction       Adjustment       \$0         Reduces the Final Assessed Penalty by the indicated percentage.       Reduction       Adjustment       \$5,250		Notes	Enhancem	ent for one I	NOV with the sa	me/similar viola	ations.			
Notes       The Respondents do not meet the culpability criteria.         Good Faith Effort to Comply Total Adjustments       Subtotal 5         Economic Benefit       0.0% Enhancement*       Subtotal 6         Total EB Amounts       \$1,075       *Capped at the Total EB \$ Amount         Estimated Cost of Compliance       \$1,075       *Capped at the Total EB \$ Amount         SUM OF SUBTOTALS 1-7       Final Subtotal       \$5,250         OTHER FACTORS AS JUSTICE MAY REQUIRE       0.0%       Adjustment       \$0         Reduces or enhances the Final Subtotal by the indicated percentage.       Final Penalty Amount       \$5,250         STATUTORY LIMIT ADJUSTMENT       Final Assessed Penalty       \$5,250         DEFERRAL       Reduction       Adjustment       \$0         Notes       Deferral not offered for non-expedited settlement.       Part offered settlement.       \$0		Notes	2							
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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 (number of judgments or consent decrees meeting criteria)       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       0       0%         Convictions       Any criminal convictions of this state or the federal government (number of counts)       0       0%         Emissions       Chronic excessive emissions events (number of events)       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 (number of audits for which notices were submitted)       0       0%         Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)       0       0%         Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)       0       0%         Other       Environmental management systems in place for one year or more No       No       0%
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Adjustment Percentage (Subtotal 2
Repeat Violator (Subtotal 3)
No Adjustment Percentage (Subtotal 3
Compliance History Person Classification (Subtotal 7)
Satisfactory Performer Adjustment Percentage (Subtotal 7
Compliance History Summary
Compliance History Notes
Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7
Final Adjustment Percentage *capped at 100

#### Reg. Ent. Reference No. RN111267555 Media Waste Tires Enf. Coordinator Ken Moller

**Respondent** Jacob Martinez and Maria Chavira

Screening Date 1-Sep-2021

Case ID No. 61353

>> Compliance History Site Enhancement (Subtotal 2)

Component Number of...

NOVs

# **Compliance History Worksheet**

Written notices of violation ("NOVs") with same or similar violations as those in

the current enforcement action (number of NOVs meeting criteria)

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

Adjust.

5%

PCW

#### **Docket No.** 2021-1246-MSW-E

N-⊏ Policy Revis

Number

1

Respondent: Jocob Martine and Maria Chavina       Peter Researce 3 (Genary 28, 2021)         Case LD No. 5: 1353       Peter Researce 3 (Genary 28, 2021)         Media vaste Tires       Fill Statistic Number         Violation Number       10 Tex. Admin. Code § 328.60(a) and Tex. Health & Safety Code § 361.112(a)         File Cite(s)       10 Tex. Admin. Code § 328.60(a) and Tex. Health & Safety Code § 361.112(a)         Field to obtain a scrap the storage alter regionation for the Site without a scrap the storage aster         res than 300 and becapite containers. Specifically, approximately 3.773 used or scrap the more than 300 and scrap the Site without a scrap the storage aster         registration         OR       Actual         Programmatic Matrix         Release       Major         Matrix       Percent         Violation Events       100% of the rule requirement was not met.         Number of Violation Events       1         Violation Events       1         Statumber of Violation Events       1         Violation Events       1         Number of		Scre	ening Date	1-Sep-2021		Do	ocket No.	2021-1246-MSW-E			PCW
Reg. Ent. Reference No. RN111267555         Media Wester Tres         Enf. Coordinator Ken Moller         Violation Number 1         Rule Cite(s)         30 Tex. Admin. Code § 328.60(a) and Tex. Health & Safety Code § 361.112(a)         Failed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires were stored on the ground or 2,000 used or scrap tires storage site registration.         Base Penalty       \$25,000         >> Environmental, Property and Human Health Matrix       Base Penalty         Marin       Nation         Violation Events       Nation         Percent       0.0%         >> Programmatic Matrix       Harn         Release       Najor         Matrix       Innor         Percent       0.0%         >> Programmatic Matrix       Harn         Release       Najor         Matrix       Innor         Percent       0.0%         Status       100% of the rule requirement was not met.         Matrix       420.000         Violation Events       28         Number of Violation Events       28         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.		Respondent Jacob Martinez and Maria Chavira Policy						Policy R	evision 5 (J	anuary 28, 2021)	
Media       Waste Tries         Field Coordinator Ken Holler       30 Tex, Admin. Code § 238.60(a) and Tex, Health & Safety Code § 361.112(a)         Rule Cite(s)       30 Tex, Admin. Code § 228.60(a) and Tex, Health & Safety Code § 361.112(a)         Failed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires in the ground or 2,000 used or scrap tires in enclosed and tockable containers. Specifically, approximately 3/73 used or scrap tire in enclosed and tockable containers. Specifically, approximately 3/73 used or scrap tires in registration.         Base Penalty       \$25,000         >> Environmental, Property and Human Health Matrix       Base Penalty         Violation Exertisi       Major         Violation Major       Moderate         Notes       100% of the rule requirement was not met.         Adjustment[       \$20,000         Violation Events       20         Number of Violation Events       20         Number of Violation Events       20         Matrix       20         Image event       300% top-rowing date.         Cood Faith Efforts to Comply       Konvolve top-rowing date.         Cood Faith Efforts to Comply       Konvolve top-rowing date.         Violation Subtota       \$5,000         Violation Subtota       \$5,000         Statutory       You top-rowing dat									PCV	V Revision F	ebruary 11, 2021
Enf. Coordinator Ken Koller Violation Number 1         Rule Cite(s)         30 Tex, Admin. Code § 328.60(a) and Tex, Health & Safety Code § 361.112(a)         Pailed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires were stored on the ground at the Site without a scrap tire storage site registration.         >> Environmental, Property and Human Health Matrix         Name         Release         Matrix         Name         Itelester         Matrix         Name         Release         Matrix         Name         Violation Events         100% of the rule requirement was not met.         Adjustment       \$20,000         \$5,000         Violation Events       1         28       Number of Violation Events       1         28       Number of Violation Events       1         28       Number of Violation Events       1         00       Cone monthly event is recommended from the August 4, 2021 mecord review date to the September 1, 2021 screening date.         Good Faith Efforts to Comply       Violation Matrix       Reduction         Violation Subtotal       55,000         Violation Subtotal       55,000	Reg. E	Ent. Ref									
Violation Number       1         30 Tex. Admin. Code § 328.60(a) and Tex. Health & Safety Code § 361.112(a)         Pailed to obtain a scrap tire storage site registration for the Site prior to storage tires in more than 300 used or scrap tires on the ground at the Site whort as scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3.773 used or scrap tires in the scrap tires is more and and approximately 3.773 used or scrap tires in the ground the site provide time is enclosed and in the stere time of the scrap times in the scrap tires in the scrap times in the scrap tin the scrap times in the scrap tin the scrap											
Rule Cite(s)         30 Tex. Admin. Code § 328.60(a) and Tex. Health & Safety Code § 361.112(a)         Failed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and tockbe containers. Specifically, approximately, 372.30 used or scrap tires in registration.         Sase Penalty         \$25,000         > Environmental, Property and Human Health Matrix         Name         Noncertainting the site without a scrap tire storage site registration.         Percent         OR         Noncertainting the site without a scrap tire storage site registration.         Percent         OR         Release         Major         Moderate         Minor         Percent         Percent         Adjustment         Statistical Matrix         Percent         Violation Events         Violation Events         Colspan="2">Violation Base Penalty         Violation Events          Violation Base					1						
Joi etc. Aufinit. Code 3 2450.0(4) and LEX. Health X Safety Code 3 261.1(24)         Failed to obtain a scrap tire storage site registration for the Site prior to storage import han 500 used or scrap tires on the ground 7,200 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3,773 used or scrap uses ures were stored on the ground at the Site whole a scrap tires to reage site registration.         Base Penalty       \$25,000         >> Environmental, Property and Human Health Matrix       Ham         Ham       Moderate         Winor       Release         Actual       Moderate         Nore       Actual         Potential       Moderate         Nore       Actual         Potential       Nore         Falsification       Major         Moderate       Ninor         Actual       S00% of the rule requirement was not met.         Notes       100% of the rule requirement was not met.         Matrix       100% of the rule requirement was not met.         Violation Events       1         Number of Violation Events       1         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0% Not/NOV NOC/NOV NO		VIOIa	ation Number	L							
Violation Description       met than 500 used or scrap titles on the ground or 2,000 used or scrap titles in enclosed and lockable containers. Specifically, approximately, appr			Rule Cite(s)	30 Tex. Adm	in. Code § 32	8.60(a) and	Tex. Health	n & Safety Code § 361	.112(a)		
>> Environmental, Property and Human Health Matrix Harm OR Actual Potential Potential Potential Potential Palsification Major Moderate Minor Percent 0.0% >>Programmatic Matrix Falsification Matrix Notes Number of Violation Events Number of Violation Events Number of Violation Events Semanual annual annual single event Number of Violation Events Semanual Number of Violation Events Number of Violation Events Semanual Number of Violation Events Number of Violation Number of Violation Events Number of Violation Events Number of Violation Events Number of Violation Events Number of Violation Number of Violation Number of Violation Events Number of Violation Number o	Violation Description violation Description view of the stored and lockable containers. Specifically, approximately 3,773 used or scrap tires were stored on the ground at the Site without a scrap tire storage site						tires in or scrap				
OR       Nainer       Mainer         Actual       Percent       0.0%         >>Programmatic Matrix       Falsification       Major       Moderate       Minor         Falsification       Major       Moderate       Minor       Percent       20.0%         Matrix       Falsification       Major       Moderate       Minor       Percent       20.0%         Matrix       Io0% of the rule requirement was not met.       Adjustment       \$20,000       \$5,000         Violation Events       I       28       Number of violation days       \$5,000         Violation Events       I       28       Number of violation days         Mainey       semiannual       S5,000       \$5,000         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       \$0         Cood Faith Efforts to Comply       0.0%       Notes       Reduction       \$0         Extraordinary       Ordinary       Notes       The Respondents do not meet the good faith criteria for this violation.       \$1         Violation Subtotal       \$5,000       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test       \$5,000         Estimated EB Amount       \$1,075       Violat								Base	e Penalty		\$25,000
Name       Harm         OR       Actual       Minor         Potential       Percent       0.0%         >>Programmatic Matrix       Falsification       Major         Falsification       Major       Moderate       Minor         Percent       20.0%       Adjustment       \$20,000         Matrix       100% of the rule requirement was not met.       Adjustment       \$20,000         Violation Events       1       28       Number of violation days         Violation Events       1       28       Number of violation days         Matrix       Matrix       45,000       \$5,000         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       \$0         Cood Faith Efforts to Comply       0.0%       NOCNOV to EDRIP/Settement Offer       \$0         Extraordinary       Ordinary       Notes       The Respondents do not meet the good faith criteria for this violation.       \$0         Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250	>> Env	ironme	ntal, Prope	rty and Hum	an Health	Matrix					
OR       Actual       Potential       Percent       0.0%         >> Programmatic Matix       Falsification       Major       Moderate       Minor       Percent       20.0%         Matrix       100% of the rule requirement was not met.       Adjustment       \$20,000         Violation Events       Adjustment       \$20,000         Violation Events       1       28       Number of violation days         Violation Events       1       28       Number of violation days         Violation Base Penalty       \$5,000         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       \$0         Good Faith Efforts to Comply       0.0%       Reduction       \$0         Notes       The Respondents do not meet the good faith criteria for this violation.       \$0         Notes       The Respondents do not meet the good faith criteria for this violation.       \$1,075         Violation Subtotal       \$5,000					Harm						
Potential       Percent       0.0%         >>Programmatic Matrix       Moderate       Minor         Percent       20.0%         Matrix       100% of the rule requirement was not met.         Notes       100% of the rule requirement was not met.         Adjustment       \$20,000         Violation Events       \$5,000         Violation Events       1         Number of Violation Events       1         Violation Base Penalty       \$5,000         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       \$0         Good Faith Efforts to Comply       0.00% NOCHOV to EDERPScattement Offer       \$0         Violation.       \$1       Percent for the stolation.       \$0         Before NOCHOV       NOCHOV to EDERPScattement Offer       \$0         Violation.       \$1       \$20         Violation.       \$1       \$20         Violation.       \$1       \$20         September 1, 2021 screening date.       \$0         Before NOCNOV       NOCHOV to EDERPScattement Offer         Extraordinary       Notes       The Respondents do not meet the good faith criteria for this violation.         Violation Subtotal       \$5,000         Es	0.0				Moderate	Minor	7				
>>Programmatic Matrix         Faisfication       Major         Matrix       100% of the rule requirement was not met.         Notes       100% of the rule requirement was not met.         Adjustment       \$20,000         S5,000       \$5,000         Violation Events       1         Number of Violation Events       1         Violation Base Penalty       \$5,000         One monthly event       1         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0%         Before KOE/NOV       NOE/NOV to EDRAYSettement Offer         Extraordinary       Notes         Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total	UK							Borcont 0.004			
Falsification       Major       Moderate       Minor       Percent       20.0%         Matrix       100% of the rule requirement was not met.       Adjustment       \$20,000         Adjustment       \$20,000       \$5,000         Violation Events       1       28       Number of violation days         Value       4aily			Potential								
Falsification       Major       Moderate       Minor       Percent       20.0%         Matrix       100% of the rule requirement was not met.       Adjustment       \$20,000         Adjustment       \$20,000       \$5,000         Violation Events       1       28       Number of violation days         Value       4aily	>>Prog	Iramma	tic Matrix								
Matrix Notes       100% of the rule requirement was not met.         Adjustment       \$20,000         \$5,000       \$5,000         Violation Events       1       28         Number of Violation Events       1       28         Violation Base Penalty       \$5,000         One monthly weekly method       \$5,000         Single event       9         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0%         Extraordinary       1         Notes       The Respondents do not meet the good faith criteria for this violation.         Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total				Major	Moderate	Minor	_				
Notes       100% of the Full Pedulitement Was not met.         Adjustment       \$20,000         \$5,000       \$5,000         Violation Events       1       28         Number of Violation Events       1       28         Violation Base Penalty       \$5,000         Weekly				x				<b>Percent</b> 20.0%			
Notes       100% of the Full Pedulitement Was not met.         Adjustment       \$20,000         \$5,000       \$5,000         Violation Events       1       28         Number of Violation Events       1       28         Violation Base Penalty       \$5,000         Weekly											
Notes       Adjustment \$20,000         Violation Events       \$5,000         Number of Violation Events       1       28         Number of Violation Events       1       28         Valueterly       28       Number of violation days         Violation Base Penalty       \$5,000         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       So         Good Faith Efforts to Comply       0.0%       NOE/NOV to EDPRP/Settlement Offer         Extraordinary       0rdinary       X         Notes       The Respondents do not meet the good faith criteria for this violation.       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test       \$5,000				10	0% of the rul	e requireme	nt was not i	met.			
Strain       Strain         Violation Events       1       28         Number of Violation Events       1       28         Violation Base Penalty       Strain         Mumber of Violation Events       1       28         Violation Base Penalty       Strain         Semiannual annual annual single event       Violation Base Penalty       Strain         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       Strain         Good Faith Efforts to Comply       0.0%       Reduction       Strain         Before NOF/NOV       NOE/NOV to EDPRP/Settlement Offer       Strain       Strain         Extraordinary       Notes       The Respondents do not meet the good faith criteria for this violation.       Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250		Notes		-							
Style       Style         Violation Events       1       28         Number of Violation Events       1       28         Violation Base Penalty       Style         Mumber of Violation Events       1       28         Violation Base Penalty       Style         Semiannual annual single event       Violation Base Penalty       \$5,000         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       \$0         Good Faith Efforts to Comply       0.0%       Reduction       \$0         Before NOF/NOV       NOE/NOV to EDPRP/Settlement Offer       \$0         Extraordinary       Ordinary       \$0         NVA       X       Notes       The Respondents do not meet the good faith criteria for this violation.       \$1,000         Economic Benefit (EB) for this violation       Statutory Limit Test       \$25,000         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250									±20.000		
Violation Events         Number of Violation Events         1       28       Number of violation days         daily         weekly         monthly       x         Violation Base Penalty       \$5,000         annual annual annual single event							Ad	justment	\$20,000		
Number of Violation Events       1       28       Number of violation days         daily       weekly       monthly       x         yanual       annual       annual       semiannual         single event       Violation Base Penalty       \$5,000         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       \$0         Good Faith Efforts to Comply       0.0%       Reduction       \$0         Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer       \$0         Extraordinary       Ordinary       \$0         V/A       x       \$0         Notes       The Respondents do not meet the good faith criteria for this violation.       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test       \$5,000         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250									l		\$5,000
Number of Violation Events       1       28       Number of violation days         daily       weekly       monthly       x         yanual       annual       annual       semiannual         single event       Violation Base Penalty       \$5,000         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       \$0         Good Faith Efforts to Comply       0.0%       Reduction       \$0         Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer       \$0         Extraordinary       Ordinary       \$0         V/A       x       \$0         Notes       The Respondents do not meet the good faith criteria for this violation.       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test       \$5,000         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250	Vieletie		h								
daily       weekly         weekly       wonthly         yund terry       weekly         semiannual       single event         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0%         Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer         Extraordinary       Ordinary         N/A       x         Notes       The Respondents do not meet the good faith criteria for this violation.         Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250	violatio	on Even	[S								
weekly       x         wonthly       x         quarterly       semiannual         annual       single event         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0%         Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer         Extraordinary			Number of \	/iolation Events	1	1	28	Number of violation	days		
weekly       x         wonthly       x         quarterly       semiannual         annual       single event         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0%         Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer         Extraordinary						-		2			
monthly       x       violation Base Penalty       \$5,000         semiannual annual single event       iningle event       iningle event       \$5,000         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       \$0         Good Faith Efforts to Comply       0.0%       Reduction       \$0         Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer       \$0         Extraordinary       Inits violation       \$0         Notes       The Respondents do not meet the good faith criteria for this violation.       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test       \$5,250											
quarterly       wiolation Base Penalty       \$5,000         semiannual       annual       single event       0         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.       8         Good Faith Efforts to Comply       0.0%       Reduction       \$0         Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer       \$0       \$0         Ordinary       Ordinary       \$1       \$0         Notes       The Respondents do not meet the good faith criteria for this violation.       \$1         Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total											
semiannual annual single event       Image: Semiannual single event         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0%         Reduction       \$0         Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer       \$0         Extraordinary       Image: Settlement Offer         Ordinary       Image: Settlement Offer         N/A       X         Notes       The Respondents do not meet the good faith criteria for this violation.         Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250					X			Violation Base	Donalty		¢5 000
annual single event         One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0%         Reduction       \$0         Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer         Extraordinary								VIOIALIOII BASE	Fenalty		\$3,000
One monthly event is recommended from the August 4, 2021 record review date to the September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0%         Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer         Extraordinary       0         Ordinary       0         N/A       x         Notes       The Respondents do not meet the good faith criteria for this violation.         Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250						1					
September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0%       Reduction       \$0         Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer         Extraordinary         Ordinary       Ordinary         N/A       x         Notes       The Respondents do not meet the good faith criteria for this violation.         Violation Subtotal         \$5,000         Economic Benefit (EB) for this violation         Statutory Limit Test         Estimated EB Amount         \$1,075         Violation Final Penalty Total				single event		j					
September 1, 2021 screening date.         Good Faith Efforts to Comply       0.0%       Reduction       \$0         Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer         Extraordinary         Ordinary       Ordinary         N/A       x         Notes       The Respondents do not meet the good faith criteria for this violation.         Violation Subtotal         \$5,000         Economic Benefit (EB) for this violation         Statutory Limit Test         Estimated EB Amount         \$1,075         Violation Final Penalty Total											
Good Faith Efforts to Comply       0.0%       Reduction       \$0         Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer       \$0         Extraordinary			One mon	thly event is real					o the		
Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer         Extraordinary       Ordinary         Ordinary       N/A         N/A       x         Notes       The Respondents do not meet the good faith criteria for this violation.         Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250					September	1, 2021 scre	ening date.				
Before NOE/NOV       NOE/NOV to EDPRP/Settlement Offer         Extraordinary						7					+ 2
Extraordinary       Image: Construction of the system of the	Good Fa	aith Effo	orts to Com			-	EDPRP/Settler		Reduction		\$0
Ordinary N/A x Notes The Respondents do not meet the good faith criteria for this violation. Violation Subtotal \$5,000 Economic Benefit (EB) for this violation Statutory Limit Test Estimated EB Amount \$1,075 Violation Final Penalty Total \$5,250							EDI N / Settien				
N/A       x         Notes       The Respondents do not meet the good faith criteria for this violation.         Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250								1			
Intersepondents do not meet the good faith criteria for this violation.         Violation Subtotal         \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250					x			<u>-</u>			
Notes       this violation.         Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250						lanta da nat	most the e	and faith aritaria for			
Violation Subtotal       \$5,000         Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075       Violation Final Penalty Total       \$5,250				Notes	The Respond			ood faith criteria for			
Economic Benefit (EB) for this violation       Statutory Limit Test         Estimated EB Amount       \$1,075         Violation Final Penalty Total       \$5,250											
Estimated EB Amount \$1,075 Violation Final Penalty Total \$5,250								Violation	Subtotal		\$5,000
	Econom	nic Bene	efit (EB) for	this violatio	on			Statutory Limit	Test		
			Estimate	ed EB Amount		\$1.075	5	Violation Final Pena	ltv Total		\$5 250
This violation Final Assessed Penalty (adjusted for limits)       \$5,250							_				
					This viol	ation Final	Assessed	Penalty (adjusted fo	or limits)		\$5,250

	E	conomic	Benefit	Woi	<b>ksheet</b>		
Respondent	: Jacob Martinez	z and Maria Chavi	ra				
Case ID No.	61353						
Reg. Ent. Reference No.	RN111267555						
	Waste Tires					Percent Interest	Years of Depreciation
	-					5.0	. 15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
Delayed Costs							
Equipment	·	7		0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	<u>\$0</u> \$0
Engineering/Construction				0.00	\$0	\$0 \$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	<u>\$0</u>
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$18,865	29-Apr-2021	19-Jun-2022	1.14	\$1,075	n/a	\$1,075
Other (as needed)				0.00	\$0	n/a	\$0
	Estimated del	aved cost to obta	in a ccran tiro ct	orano c		the Site (3 773 tire	s at ¢5 nor tiro
Notes for DELAYED costs	disposal cost).	•	ed is the initial i	nvestiga compli	ation date and the ance	Final Date is the est	imated date of
Notes for DELAYED costs	disposal cost).	The Date Requir	ed is the initial i	nvestiga compli	ation date and the ance	• •	imated date of
	disposal cost).	The Date Requir	ed is the initial i	nvestiga compli	ation date and the ance	Final Date is the est	imated date of
Avoided Costs	disposal cost).	The Date Requir	ed is the initial i	tering 0.00	ation date and the ance item (except for \$0 \$0	Final Date is the est one-time avoided \$0 \$0	imated date of I costs) \$0 \$0
Avoided Costs Disposal Personnel	disposal cost).	The Date Requir	ed is the initial i	tering 0.00	ition date and the ance item (except for \$0	Final Date is the est one-time avoided \$0 \$0 \$0	imated date of <b>I costs)</b> \$0 \$0 \$0
Avoided Costs Disposal Personnel	disposal cost).	The Date Requir	ed is the initial i	tering 0.00	ation date and the ance item (except for \$0 \$0	Final Date is the est one-time avoided \$0 \$0	imated date of I costs) \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	disposal cost).	The Date Requir	ed is the initial i	tering 0.00 0.00 0.00 0.00 0.00 0.00	tion date and the ance item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	Final Date is the est one-time avoided \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	imated date of ( costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel nspection/Reporting/Sampling Supplies/Equipment	disposal cost).	The Date Requir	ed is the initial i	tering 0.00 0.00 0.00 0.00 0.00 0.00 0.00	tion date and the ance item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	Final Date is the est one-time avoided \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	imated date of \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel inspection/Reporting/Sampling Supplies/Equipment Financial Assurance	disposal cost).	The Date Requir	ed is the initial i	tering 0.00 0.00 0.00 0.00 0.00 0.00	tion date and the ance item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	Final Date is the est one-time avoided \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	imated date of ( costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel nspection/Reporting/Sampling Supplies/Equipment Financial Assurance ONE-TIME avoided costs	disposal cost).	The Date Requir	ed is the initial i	tering 0.00 0.00 0.00 0.00 0.00 0.00 0.00	tion date and the ance item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	Final Date is the est one-time avoided \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	imated date of \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0



# Compliance History Report

Compliance History Report for CN605893841, RN111267555, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent,	CN605893841, Jacob, Martinez	Classification: SATISFACT	ORY Rating: 4.00				
or Owner/Operator: Regulated Entity:	RN111267555, 5491 OLEARY DR	Classification: SATISFACT	ORY Rating: 4.00				
Complexity Points: CH Group:	1 14 - Other	Repeat Violator:	NO				
Location: TCEQ Region:	5491 Oleary Drive, El Paso, El Paso Count REGION 06 - EL PASO	ry, Texas 79938-8669					
ID Number(s): MUNICIPAL SOLID WASTE R06111267555	NON PERMITTED ID NUMBER						
Compliance History Per	iod: September 01, 2016 to August 31, 2	021 <b>Rating Year:</b> 202	1 <b>Rating Date:</b> 09/01/2021				
Date Compliance Histor	y Report Prepared: September 30, 2	2021					
Agency Decision Requir	ing Compliance History: Enforceme	ent					
<b>Component Period Sele</b>	cted: September 30, 2016 to Septembe	r 30, 2021					
TCEQ Staff Member to C	contact for Additional Information	Regarding This Compli	ance History.				
Name: Alain Elegbe		<b>Phone:</b> (512)	239-6924				
Site and Owner/Oper	ator History:						
1) Has the site been in existence and/or operation for the full five year compliance period?NO2) Has there been a (known) change in ownership/operator of the site during the compliance period?NO							
<u>Components (Multim</u>	edia) for the Site Are Listed in S	Sections A - J					
A. Final Orders, court j N/A	udgments, and consent decrees:						
<b>B. Criminal convictions</b> N/A	:						
<b>C. Chronic excessive e</b> N/A	missions events:						
D. The approval dates N/A	of investigations (CCEDS Inv. Trac	k. No.):					
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.							
	/01/2021 (1711066)						
Self Report? Citation: Description:	NO 30 TAC Chapter 328, SubChapter F 328 Failure to obtain a scrap tire storage sit than 500 used or scrap tires on the gro	e registration for a facility si und or 2,000 used or scrap	toring more				

enclosed and lockable containers. At the time of the investigation, property failed

to obtain a scrap tire storage registration.

# F. Environmental audits: N/A

- G. Type of environmental management systems (EMSs):  $_{\mbox{N/A}}$
- H. Voluntary on-site compliance assessment dates:  $_{\mbox{N/A}}$
- I. Participation in a voluntary pollution reduction program:  $$N\!/\!A$$
- J. Early compliance: N/A

### Sites Outside of Texas:

N/A



# Compliance History Report

Compliance History Report for CN605893858, RN111267555, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Opera		N605893858, Maria, Chavira	Classification: SA	TISFACTORY	<b>Rating:</b> 4.00
Regulated Entity Complexity Point		N111267555, 5491 OLEARY R 1	<b>Classification:</b> SA <b>Repeat Violator:</b>		<b>Rating:</b> 4.00
CH Group:	14	4 - Other			
Location:	Ę	5491 Oleary Drive, El Paso, El Paso Coun	ty, Texas 79938-8669		
TCEQ Region:	F	REGION 06 - EL PASO			
R06111267555		ON PERMITTED ID NUMBER			
-	-	<b>d:</b> September 01, 2016 to August 31, 20	-	2021 <b>Ra</b>	ting Date: 09/01/2021
-		Report Prepared: September 30, 2			
	-	g Compliance History: Enforceme			
Component Per	iod Select	ed: September 30, 2016 to Septembe	r 30, 2021		
TCEQ Staff Mem	nber to Co	ntact for Additional Information	Regarding This Con	npliance Hist	ory.
Name: Alain	-		<b>Phone:</b> (5	12) 239-6924	
Site and Owne	er/Operat	<u>tor History:</u>			
-		e and/or operation for the full five year co ange in ownership/operator of the site du		riod? NO	
<u>Components (</u>	Multimed	lia) for the Site Are Listed in S	Sections A - J		
A. Final Orders N/A	s, court juc	dgments, and consent decrees:			
B. Criminal con N/A	nvictions:				
<b>C. Chronic exc</b> N/A	essive emi	issions events:			
D. The approva N/A	al dates of	investigations (CCEDS Inv. Trac	k. No.):		
A notice of viol	lation represe	lations (NOV) (CCEDS Inv. Track ents a written allegation of a violation of a of violation is not a final enforcement act	a specific regulatory req	uirement from t plation has actua	he commission to a illy occurred.
1 Dat		1/2021 (1711066)			
Sel		NO	Classification: N	Ioderate	
Cita	ation:	30 TAC Chapter 328, SubChapter F 328	.60(a)		
Des	scription:	Failure to obtain a scrap tire storage sit than 500 used or scrap tires on the grou enclosed and lockable containers. At the to obtain a scrap tire storage registration	und or 2,000 used or sc time of the investigat	rap tires in	

to obtain a scrap tire storage registration.

- G. Type of environmental management systems (EMSs): N/A
- H. Voluntary on-site compliance assessment dates:  $$\rm N/A$$
- 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 JACOB MARTINEZ AND MARIA CHAVIRA; RN111267555 **BEFORE THE** 

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

### DEFAULT ORDER

### DOCKET NO. 2021-1246-MSW-E

On \_\_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary 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 respondents. The respondents made the subject of this Order are Jacob Martinez and Maria Chavira ("Respondents").

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

# FINDINGS OF FACT

- 1. Respondents own a residence located at 5491 O'Leary Drive near El Paso, El Paso County, Texas (the "Site"). The Site contains and/or involves the management of municipal solid waste ("MSW"), including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
- 2. During an investigation conducted on and around April 29, 2021, and a record review conducted on and around August 4, 2021, an investigator documented that Respondents failed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers. Specifically, approximately 3,773 used or scrap tires were stored on the ground at the Site without a scrap tire storage site registration.
- 3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Jacob Martinez and Maria Chavira" (the "EDPRP") in the TCEQ Chief Clerk's office on March 30, 2023.
- 4. By letter dated March 30, 2023, sent to Respondents' last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondents with notice of the EDPRP. According to the return receipt "green card," Respondents received notice of the EDPRP on April 10, 2023, as evidenced by the signatures on the cards.
- 5. More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact No. 1, Respondents are 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, Respondents failed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in enclosed and lockable containers, in violation of TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN CODE § 328.60(a).

- 3. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondents with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
- 4. As evidenced by Finding of Fact No. 5, Respondents 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 Respondents and assess the penalty recommended by the Executive Director.
- 5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents 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.
- 6. An administrative penalty in the amount of five thousand two hundred fifty dollars (\$5,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in Tex. WATER CODE § 7.053.
- 7. 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. Respondents are assessed an administrative penalty in the amount of five thousand two hundred fifty dollars (\$5,250.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondents' 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: Jacob Martinez and Maria Chavira; Docket No. 2021-1246-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. Respondents shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, cease storing any additional used and/or scrap tires at the Site until proper authorization is obtained.
  - b. Within 90 days after the effective date of this Order, reduce the number of scrap tires being stored at the Site to less than 500 on the ground or 2,000 used or scrap tires in enclosed and lockable containers, using a registered transporter and an authorized storage, processing, or disposal facility and maintaining manifests, in accordance with 30 TEX. ADMIN CODE § 328.59.
  - c. In lieu of Ordering Provisions No. 3.b., within 180 days after the effective date of this Order, register the Site as a scrap tire storage facility, in accordance with TEX. HEALTH & SAFETY CODE § 361.112(a) and 30 TEX. ADMIN CODE § 328.60(a).
  - d. Within 195 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b., or 3.a. and 3.c.

The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondents, 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 El Paso Regional Office Texas Commission on Environmental Quality 401 E. Franklin Ave, Ste 560 El Paso TX 79901-1212

- 4. All relief not expressly granted in this Order is denied.
- 5. The provisions of this Order shall apply to and be binding upon Respondents.
- 6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive 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.
- 7. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 8. 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 Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
- 9. 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.
- 10. 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.

11. 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.

Jacob Martinez and Maria Chavira Docket No. 2021-1246-MSW-E Page 5

# SIGNATURE PAGE

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



### UNSWORN DECLARATION OF ERANDI RATNAYAKE

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Jacob Martinez and Maria Chavira' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 30, 2023.

The EDPRP was mailed to Respondents' last known address on March 30, 2023, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green cards," Respondents' received notice of the EDPRP on April 10, 2023, as evidenced by the signatures on the cards.

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

"My name is Erandi Ratnayake, 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 August, 2023

Erard Ralight

Declarant