

Executive Summary – Enforcement Matter – Case No. 62063

**Break it Down, L.L.C.
RN101493393
Docket No. 2022-0329-AIR-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Break it Down, 7400 Farm-to-Market Road 969, Austin, Travis County

Type of Operation:

Recycling and compost facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: October 20, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,500

Amount Deferred for Expedited Settlement: \$4,500

Total Paid to General Revenue: \$500

Total Due to General Revenue: \$17,500

Payment Plan: 35 payments of \$500 each

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): December 29, 2021 through February 9, 2022

Complaint Information: Alleged odor from the facility had created a nuisance condition at their locations.

Date(s) of Investigation: January 14, 2022 through February 10, 2022

Date(s) of NOE(s): February 17, 2022

Executive Summary – Enforcement Matter – Case No. 62063
Break it Down, L.L.C.
RN101493393
Docket No. 2022-0329-AIR-E

Violation Information

Failed to prevent nuisance odor conditions. Specifically, TCEQ staff conducted odor surveys at off-site locations at the complainants' sites or equal distance on January 14, 2022, January 19, 2022, February 1, 2022, and February 9, 2022 and detected composting putrescible waste odors on January 14, 2022, January 19, 2022, February 1, 2022, and February 9, 2022 that resulted in the documentation of nuisance odor conditions [30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By May 12, 2022, the Respondent removed all of the composting piles and impacted soils at the Site in order to minimize odors at the Site and prevent nuisance odor conditions from impacting off-site receptors.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3682; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Jeffrey Paine, Owner, Break it Down, L.L.C., P.O. Box 144851, Austin, Texas 78741

Respondent's Attorney: N/A

MSW REG_47075_RP_20220114
Texas Commission on Environmental Quality
Investigation Report

The TCEQ is committed to accessibility. If you need assistance in accessing this document, please contact oce@tceq.texas.gov

Customer: Break it Down, L.L.C.
Customer Number: CN604373332

Regulated Entity Name: BREAK IT DOWN
Regulated Entity Number: RN101493393

Investigation # 1789821

Incident Numbers

372407	373888
372957	373036
373090	373694
373584	373609
373070	373556
372694	374226
372352	373326
373725	372369
372718	372806
374300	373411
372332	373248
372406	372680
372648	373511
373604	372670

Investigator: RICK CIAMPI

Site Classification RESOURCE
RECOVERY/COMPOSTING
FACILITY

Conducted: 01/14/2022 -- 02/10/2022

SIC Code: 5093

NAIC Code: 562920

Program(s): AIR QUALITY NON PERMITTED
MUNICIPAL SOLID WASTE PROCESSING

Investigation Type: Compliance Investigation

Location: N SIDE OF FM 969, ACROSS FROM
WALNUT CREK WWTP. BETWEEN JOHNNY
MORRIS RD AND SENDERO HILLS PKWY.

Additional ID(s): 47075

Address: 7400 FM 969,
AUSTIN, TX , 78724

Local Unit: REGION 11 - AUSTIN

Activity Type(s): FIAIRODOR - AIR FIAIRODOR - FOC
INV ODOR SURVEY
AIRCOMPL - AIR CMPL - AIR
COMPLAINT INV
MSWOTH - A focused on-site MSW
compliance investigation not included
under other Workplan event
description.

Principal(s):

Role	Name
RESPONDENT	BREAK IT DOWN LLC

Contact(s):

BREAK IT DOWN - AUSTIN

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Role	Title	Name	Phone
NOE CONTACT	OWNER	MR JEFF PAINE	Work (512) 497-3477
REGULATED ENTITY MAIL CONTACT	OWNER	MR JEFF PAINE	Work (512) 497-3477

Other Staff Member(s):

Role	Name
Investigator	GUADALUPE QUIROZ
QA Reviewer	ELIJAH GANDEE
Investigator	LORI WILSON
Supervisor	ELIJAH GANDEE

Associated Check List

<u>Checklist Name</u>	<u>Unit Name</u>
AIR COMPLAINT INVESTIGATION	BID
AIR FOCUSED INVESTIGATION - ODOR SURVEY	BID

Investigation Comments:

INTRODUCTION

I, Rick Ciampi (Lead Investigator), and Guadalupe Quiroz, Environmental Investigators and Lori Wilson, Assistant Director for the Texas Commission on Environmental Quality (TCEQ) Austin Regional Office, conducted this investigation in response to odor complaints against Break It Down (BID/site/facility) located at 7400 FM 969, Austin (Travis County), Texas.

Daily Narrative

Between December 29, 2021, and February 9, 2022, complaints were received by the TCEQ Austin Regional Office (Incident Nos. 372332, 372352, 372369, 372406, 372407, 372648, 372670, 372680, 372694, 372718, 372806, 372957, 373036, 373030, 373090, 373248, 373326, 373411, 373511, 373556, 373584, 373604, 373609, 373694, 373725, 373888, 374226 and 374300). The complainants alleged that odor from the facility had created a nuisance condition at their locations.

The applicable nuisance rule, 30 Texas Administrative Code (TAC) §101.4, states that no person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property. To confirm adverse effects on the normal use and enjoyment of property from a nuisance odor, the impact must be documented using the agency's Odor Complaint Investigation Procedures, including the frequency, intensity, duration, and offensiveness (FIDO) chart.

On January 14, 2022, at approximately 1009 hours, Ms. Quiroz arrived at the intersection of Sendero Hills Pkwy. and Annette Cove and conducted an odor survey from 1009-1109 hours. No odors associated to composting putrescible waste were detected (Attachment A1-Supplemental Odor Log).

Weather conditions (obtained from mesonet.agron.iastate.edu) at the time of the investigation were noted as:
Temperature: approximately 65-75 degrees Fahrenheit
Precipitation: none
Wind Speed: 3-5 mph
Wind Direction: VRB

On January 14, 2022, at approximately 1341 hours, Ms. Quiroz arrived at the intersection of Pinon Vista Dr. and Seville Dr. and conducted an odor survey from 1341-1356 hours. No odors associated to composting putrescible waste were detected (Attachment A2-Supplemental Odor Log).

Ms. Quiroz then proceeded to the intersection of Sendero Hills Pkwy. and Agatha Cir. and conducted an odor

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survey from 1402-1417 hours. Ms. Quiroz detected intermittent odors of composting putrescible waste at a moderate intensity (Attachment A3-Supplemental Odor Log).

Weather conditions (obtained from mesonet.agron.iastate.edu) at the time of the investigation were noted as:

Temperature: approximately 77 degrees Fahrenheit

Precipitation: none

Wind Speed: 8-10 mph

Wind Direction: S

On January 19, 2022, at approximately 1122 hours, Ms. Quiroz arrived at the intersection of Sendero Hills Pkwy. and Pinon Vista Dr. and conducted an odor survey from 1122-1137 hours. Ms. Quiroz detected intermittent odors of composting putrescible waste at very light to strong intensities (Attachment A4-Supplemental Odor Log).

Ms. Quiroz then proceeded to the intersection of Sendero Hills Pkwy. and Agatha Cir. and conducted an odor survey from 1152-1222 hours. Ms. Quiroz detected intermittent odors of composting putrescible waste ranging from light to strong intensities (Attachment A5-Supplemental Odor Log).

Ms. Quiroz then proceeded to the intersection of Pinon Vista Dr. and Seville Dr. and conducted an odor survey from 1246-1301 hours. Ms. Quiroz detected intermittent odors of composting putrescible waste ranging from very light to light intensities (Attachment A6-Supplemental Odor Log).

Weather conditions (obtained from mesonet.agron.iastate.edu) at the time of the investigation were noted as:

Temperature: approximately 73-75 degrees Fahrenheit

Precipitation: none

Wind Speed: 8-10 mph

Wind Direction: VRB

On January 28, 2022,

at approximately 1116 hours, Ms. Quiroz and I arrived at the intersection of Sendero Hills Pkwy. and Agatha Cir. and conducted an odor survey from 1116-1131 hours. No odors associated to composting putrescible waste were detected (Attachment A7-Supplemental Odor Log).

Ms. Quiroz and I then proceeded to a section of Sendero Hills Pkwy. between Pinon Vista Dr. and Annette Cove and conducted an odor survey from 1136-1221 hours. No odors associated to composting putrescible waste were detected (Attachment A8-Supplemental Odor Log).

Weather conditions (obtained from mesonet.agron.iastate.edu) at the time of the investigation were noted as:

Temperature: approximately 51-54 degrees Fahrenheit

Precipitation: none

Wind Speed: 10-13 mph

Wind Direction: N

After the odor survey was completed, I entered the facility and contacted Mr. Michael Wright, Manager at the site. According to Mr. Wright, the facility will continue to receive food waste and mulch. Mr. Wright also mentioned that they have removed a portion of the existing compost piles stating that approximately two trucks per day are loaded with material and transported to an area offsite, one with compost and one with clean food. The piles appeared noticeably smaller than what was observed during a previous investigation conducted on December 1, 2021. During that investigation, it was determined that approximately 1,100 cubic yards of compost was stored onsite. Pursuant to Municipal Solid Waste (MSW) Processing Registration No. 47075, the facility is authorized to have up to 2,160 cubic yards of combustible material stored outside (see Attachment B-NOI).

Photographic documentation of the compost piles taken during the investigation conducted on December 1, 2021, and January 28, 2022, are provided in Attachment C.

We left the facility at approximately 1240 hours.

On February 1, 2022, at approximately 1227 hours I arrived at the intersection of Sendero Hills Pkwy. and Agatha Cir. and conducted an odor survey in the 5300 and 5400 blk. of Agatha Cir. from 1227-1307 hours. I detected intermittent odors of composting putrescible waste at a very strong intensity in the 5320-5340 blk. of Agatha Cir.

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(Attachment D1-Supplemental Odor Log).

I then proceeded to the intersection of Sendero Hills Pkwy. and Pinon Vista Dr. and conducted an odor survey from 1312-1327 hours. No odors associated to composting putrescible waste were detected (Attachment D2-Supplemental Odor Log).

I then proceeded back to the intersection of Sendero Hills Pkwy. and Agatha Cir. and conducted an odor survey in the 5300 and 5400 blk of Agatha Cir. from 1328-1338 hours. I detected intermittent odors of composting putrescible waste at a very strong intensity in the 5320-5340 blk. of Agatha Cir. (Attachment D3-Supplemental Odor Log).

Weather conditions (obtained from mesonet.agron.iastate.edu) at the time of the investigation were noted as:
Temperature: approximately 60-63 degrees Fahrenheit
Precipitation: none
Wind Speed: none
Wind Direction: Calm

On February 9, 2022, at approximately 1317 hours Ms. Lori Wilson arrived at the 5340 blk of Agatha Cir. and conducted an odor survey from 1317-1332. Intermittent odors of composting putrescible waste at strong to very strong intensities were detected (Attachment D4-Supplemental Odor Log).

Ms. Wilson then proceeded to the 5310 blk. of Agatha Cir. and conducted an odor survey from 1335-1350 hours and detected intermittent odors of composting putrescible waste at a strong to very strong intensity (Attachment D5-Supplemental Odor Log).

Weather conditions (obtained from mesonet.agron.iastate.edu) at the time of the investigation were noted as:
Temperature: approximately 72 degrees Fahrenheit
Precipitation: none
Wind Speed: 1-3 mph
Wind Direction: VRB

The intensity and duration of the odors detected during the investigation do meet the criteria to be considered a nuisance condition. Specifically, a "Very Strong" odor was detected at a complainant's site or equal di

stance for 22 minutes on February 1, 2022, and for 17 minutes on February 9, 2022 (Attachments D1, D3, D4 and D5).

According to the FIDO chart, the odor detected, which is characterized as "Offensive" falls within the "Weekly" category, as the odor has been documented at least three other times at a complainant's site or equal distance, in any 30-day period. Utilizing parameters for frequency, intensity and offensiveness, the duration of a very strong odor needs only one minute to be considered a violation. (Attachment E-FIDO Chart).

Exit Interview

On February 11, 2022, Mr. Jeff Paine, Owner of BID, was informed that the response to the December 15, 2021, NOV appears to be inadequate. Specifically, over the past few weeks we detected odors associated to the composting of putrescible wastes at such a duration and intensity that a violation of 30 TAC 101.4 cannot be resolved and the facility will be referred to the Enforcement Division (Attachment F-Exit Interview).

GENERAL FACILITY AND PROCESS INFORMATION

Break it Down is a business entity that is primarily involved with the intake, processing, consolidation, and delivery of bulk recyclable materials.

The facility has obtained two separate MSW notification-level authorizations. Authorization number 47075 relates to the facility's composting operation. Authorization number 100538 relates to the facility's recycling operation. The facility is also permitted for the discharge of industrial stormwater under Multi Sector General Permit (MSGP) No. TXR05EP46, which was obtained on May 5, 2020.

The facility is authorized to accept yard trimmings, clean wood, paper, manure, vegetative materials, dairy materials, oil, meat, animal carcasses, grease, fish, corrugated cardboard (OCC), clean plastic wrap/film, aseptic

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packaging, shredded office paper, scrap metal and aluminum, glass containers, rigid plastics #1-7, mixed paper, and pallets. Financial assurance (FA) must also be maintained to cover costs associated with facility closure.

The facility acquires food waste from multiple restaurants and commercial kitchen cafeterias. The majority is picked up by the facility's own transportation service, and a smaller portion is received directly at the facility by two other businesses.

Brush waste and mulch is received by various landscaping companies that deliver the material to the facility. Mr. Paine stated that he is not currently charging a monetary fee for the receipt of brush waste or mulch.

For their composting operation, the facility stages piles utilizing the windrow method. When food waste is received, it is placed on the ground, then covered and mixed with brush waste. Once piles have reached and are maintained at an appropriate temperature (131 degrees Fahrenheit or higher), the windrow is required to be turned no fewer than five times during its aging period.

Travis County Appraisal District records indicate the real property identification number is 544845 and is 100% owned by 7400 Webberville Road Inc. The property has the following legal description: ABS 4 SUR 19 BURLESON J ACR 5.991. Break It Down is leasing a portion of the property for their operations. Texas Secretary of State records indicate the entity type for Break it Down, L.L.C. is a domestic limited liability company (LLC) with a status of "In existence" (Filing No. 801223522).

BACKGROUND

Current Enforcement Actions

One violation was documented during this investigation which will result in a Notice of Enforcement (NOE).

Agreed Orders, Court Orders, and other Compliance Agreements

After reviewing the Commissioners' Integrated Database (CID) and the Consolidated Compliance Enforcement Database System (CCEDS), it was determined that this facility has not been the subject of an agreed order, court order, or other compliance agreement within the past five years.

Prior Enforcement Issues

Notwithstanding this NOE, the facility has been issued two Notices of Violation (NOVs) within the past f

ive years. One for operating without proper authorization as documented in CCEDS investigation No. 1638165 and one for creating a nuisance odor as documented in CCEDS investigation No. 1775074.

Complaints

Prior to this investigation, Break It Down has been subject to five complaint investigations in the past five years. Information regarding previous complaint investigations can be found in CCEDS investigation Nos. 1762127, 1765779, 1772113, 1775074 and 1783303.

ADDITIONAL INFORMATION

On January 6, 2022, BID submitted documentation in response to a Notice of Violation, dated December 15, 2021 (Attachment G-Response to NOV).

The response indicated that the facility is phasing out and removing the compost windrows from the facility and will be hauling off finished compost daily to reduce the size of the piles. As new material comes in, all clean vegetable and fruit wastes will be removed offsite daily. The smaller fraction of material remaining on-site that includes meat waste and post-consumer products will be composted in new windrows with a higher percentage of mulch than previously used to prevent odors. Additionally, the response indicated that in a 3-6-month timeframe the facility plans on setting up industrial dehydrators on-site and that they will no longer compost any material in traditional windrows.

Conclusion and Recommendation

From January 14 to February 9, 2022, a complaint investigation was conducted. The facility is currently subject to one outstanding violation for creating a nuisance condition as documented through CCEDS Inv. No. 1775074. Observations made during this investigation continue to confirm the presence of a nuisance condition as demonstrated using the FIDO chart. In addition, the steps taken by the facility as detailed in the response to the

NOV appear to be insufficient. An NOE is recommended.

Additional Issues
Not Applicable

NOE Date: 2/17/2022

**OUTSTANDING ALLEGED VIOLATION(S)
ASSOCIATED TO A NOTICE OF ENFORCEMENT**

Track Number: 796908

Compliance Due Date: To Be Determined

Violation Start Date: 12/1/2021

30 TAC Chapter 101.4
5C THSC Chapter 382.085(b)

Alleged Violation:

Investigation: 1775074

Comment Date: 12/15/2021

From November 23 to December 1, 2021, a complaint investigation was conducted in response to nuisance allegations against Break It Down located at 7400 FM 969, Austin (Travis County), Texas. Odor conditions were experienced off-site at an intensity and duration that constitutes a nuisance condition.

Investigation: 1789821

Comment Date: 02/16/2022

On January 28, 2022 and February 9, 2022, the odors detected at complainants' locations continue to confirm the presence of a nuisance condition as demonstrated using the FIDO chart.

According to the FIDO chart, the odor detected, which is characterized as "Offensive" falls within the "Weekly" category, as the odor has been documented at least three other times at a complainant's site or equal distance, in any 30-day period. Utilizing parameters for frequency, intensity and offensiveness; the duration of a very strong odor needs only one minute to be considered a violation.

Specifically, a "Very Strong" odor was detected at a complainant's site or equal distance for 22 minutes on February 1, 2022 and for 17 minutes on February 9, 2022.

In addition, the steps taken by the facility as detailed in the response they submitted on January 6, 2022 to address the corrective action required by the NOV dated December 12, 2021, appear to be insufficient.

Recommended Corrective Action: Corrective Actions will be determined by the Enforcement Division.

Signed Rick Campi
Environmental Investigator

Date 02/17/2022

Signed Elyse Garber
Supervisor

Date 02/17/2022



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	22-Feb-2022			
	PCW	15-Sep-2023	Screening	3-Mar-2022	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Break it Down, L.L.C.
Reg. Ent. Ref. No.	RN101493393
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	62063	No. of Violations	1	
Docket No.	2022-0329-AIR-E	Order Type	1660	
Media Program(s)	Air	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Danielle Porras	
		EC's Team	Enforcement Team 2	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$25,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustments 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	-\$2,500
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$242
 Estimated Cost of Compliance: \$15,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$22,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$22,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$22,500
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DEFERRAL	20.0%	Reduction	Adjustment	-\$4,500
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$18,000
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Screening Date 3-Mar-2022

Docket No. 2022-0329-AIR-E

PCW

Respondent Break it Down, L.L.C.

Policy Revision 5 (January 28, 2021)

Case ID No. 62063

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101493393

Media Air

Enf. Coordinator Danielle Porras

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustments 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	3-Mar-2022	Docket No.	2022-0329-AIR-E	PCW
Respondent	Break it Down, L.L.C.			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	62063			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101493393			
Media	Air			
Enf. Coordinator	Danielle Porras			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	x	<input type="text"/>	Percent <input type="text" value="25.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Break it Down, L.L.C.
Case ID No. 62063
Reg. Ent. Reference No. RN101493393
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$15,000	14-Jan-2022	12-May-2022	0.32	\$242	n/a	\$242

Notes for DELAYED costs

Estimated cost to remove all of the composting piles and impacted soils at the Site in order to minimize odors at the Site and prevent nuisance odor conditions from impacting off-site receptors. The Date Required is the first date an odor was detected and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

TOTAL

\$242



Compliance History Report

Compliance History Report for CN604373332, RN101493393, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN604373332, Break it Down, L.L.C. **Classification:** SATISFACTORY **Rating:** 0.31

Regulated Entity: RN101493393, Break It Down **Classification:** SATISFACTORY **Rating:** 0.57

Complexity Points: 6 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 7400 Farm-to-Market Road 969, Austin, Travis County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

MUNICIPAL SOLID WASTE PROCESSING REGISTRATION
47075

MUNICIPAL SOLID WASTE PROCESSING REGISTRATION
100538

STORMWATER PERMIT TXR05EP46

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: June 05, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 05, 2018 to June 05, 2023

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Danielle Porras

Phone: (713) 767-3682

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 4 July 14, 2022 (1823557)

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
BREAK IT DOWN, L.L.C.
RN101493393

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2022-0329-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Break it Down, L.L.C. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a recycling and compost facility located at 7400 Farm-to-Market Road 969 in Austin, Travis County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$22,500 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$500 of the penalty and \$4,500 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$17,500 of the undeferred penalty shall be paid in 35 monthly payments of \$500 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 the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance

constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, 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 the Respondent has not complied with one or more of the terms or conditions 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 compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that by May 12, 2022, the Respondent removed all of the composting piles and impacted soils at the Site in order to minimize odors at the Site and prevent nuisance odor conditions from impacting off-site receptors.

II. ALLEGATIONS

During an investigation at the Site conducted from January 14, 2022 through February 10, 2022, investigators documented that the Respondent failed to prevent nuisance odor conditions, in violation of 30 TEX. ADMIN. CODE § 101.4 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b). Specifically, TCEQ staff conducted odor surveys at off-site locations at the complainants' sites or equal distance on January 14, 2022, January 19, 2022, February 1, 2022, and February 9, 2022 and detected composting putrescible waste odors on January 14, 2022, January 19, 2022, February 1, 2022, and February 9, 2022 that resulted in the documentation of nuisance odor conditions.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ"

and shall be sent with the notation "Re: Break it Down, L.L.C., Docket No. 2022-0329-AIR-E" to:

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

2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The 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.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission
Date

11/9/2023

For the Executive Director
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG 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 OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature
Date

9-26-23

Jeff Paine
Title
Name (Printed or typed)
Authorized Representative of
Break it Down, L.L.C.

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.