

Executive Summary – Enforcement Matter – Case No. 61745
Stoney River Ranch, LLC dba Wise Topsoil and Gravel
RN111363354
Docket No. 2022-0336-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM – AIR, MSW, WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Wise Topsoil and Gravel, 1469 Highway 183 North, Liberty Hill, Williamson County

Type of Operation:

Unauthorized recycling and disposal site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 24, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$16,232

Amount Deferred for Expedited Settlement: \$3,246

Total Paid to General Revenue: \$12,986

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 12, 2021, through October 26, 2021

Date(s) of NOE(s): December 1, 2021

Violation Information

1. Failed to submit a Notice of Intent ("NOI") prior to the commencement of recycling activities. Specifically, the Respondent accepted and processed wood for recycling prior to providing notice to the TCEQ [30 TEX. ADMIN. CODE § 328.5(b)].

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2. Failed to establish and maintain adequate financial assurance for the closure of a facility that stores combustible materials outdoors [30 TEX. ADMIN. CODE § 328.5(d)].

3. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 20 cubic yards of municipal solid waste (“MSW”) consisting of wood, metals, and plastics were burned at the Site [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, approximately 40 cubic yards of MSW, consisting of metals, wood, plastics, and burned materials were disposed of at the Site [30 TEX. ADMIN. CODE § 330.15(a) and (c)].

5. Failed to obtain authorization to discharge stormwater associated with industrial activities. Specifically, the Respondent was operating industrial activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System (“TPDES”) General Permit No. TXR050000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Immediately:

i. Cease all unauthorized recycling activities until such time as authorization has been obtained;

ii. Cease all unauthorized burning of MSW at the Site; and

iii. Cease all unauthorized MSW disposal at the Site.

b. Within 30 days:

i. Develop and implement a Stormwater Pollution Prevention Plan to comply with the requirements of TPDES General Permit No. TXR050000; and

ii. Submit an NOI through the State of Texas Environmental Electronic Reporting System (“STEERS”) to obtain authorization to discharge stormwater.

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c. In addition, comply with either c.i. or c.ii.:

i. Within 30 days, remove all combustible recyclable materials and MSW from the Site and dispose of it at an authorized facility; or

ii. Within 30 days:

1. Complete and submit an NOI through STEERS to conduct recycling activities;

2. Provide financial assurance for the Site; and

3. Remove all unauthorized MSW from the Site and dispose of it at an authorized facility.

d. Within 45 days, submit written certification to demonstrate compliance with a., b., and c.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Eresha DeSilva, Enforcement Division, Enforcement Team 3, MC R-12, (512) 239-5084; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: David Wise, Manager, Stoney Wise Topsoil and Gravel, 202 Crystal Falls Parkway, Apartment 11, Leander, Texas 78641

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	6-Dec-2021			
	PCW	28-Feb-2022	Screening	29-Dec-2021	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Stoney River Ranch, LLC dba Wise Topsoil and Gravel
Reg. Ent. Ref. No.	RN111363354
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	61745	No. of Violations	5
Docket No.	2022-0336-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Air	Enf. Coordinator	Eresha DeSilva
	Water Quality	EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
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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 adjustment for compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,105	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$19,888	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	8.2% Adjustment	\$1,232
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violation Nos. 2 and 3.
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Final Penalty Amount	\$16,232
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,232
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DEFERRAL	20.0% Reduction Adjustment	-\$3,246
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$12,986
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Screening Date 29-Dec-2021

Docket No. 2022-0336-MLM-E

PCW

Respondent Stoney River Ranch, LLC dba Wise Topsoil and Gravel

Policy Revision 5 (January 28, 2021)

Case ID No. 61745

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111363354

Media Municipal Solid Waste

Enf. Coordinator Eresha DeSilva

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 29-Dec-2021

Docket No. 2022-0336-MLM-E

PCW

Respondent Stoney River Ranch, LLC dba Wise Topsoil and Gravel

Policy Revision 5 (January 28, 2021)

Case ID No. 61745

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111363354

Media Municipal Solid Waste

Enf. Coordinator Eresha DeSilva

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 328.5(b)

Violation Description Failed to submit a Notice of Intent ("NOI") prior to the commencement of recycling activities. Specifically, the Respondent accepted and processed wood for recycling prior to providing notice to the TCEQ.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR			Harm			Percent
	Release	Major	Moderate	Minor	0.0%	
	Actual					
Potential						

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 64

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the October 26, 2021 investigation date to the December 29, 2021 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$467

Violation Final Penalty Total \$2,705

This violation Final Assessed Penalty (adjusted for limits) \$2,705

Economic Benefit Worksheet

Respondent Stoney River Ranch, LLC dba Wise Topsoil and Gravel
Case ID No. 61745
Reg. Ent. Reference No. RN111363354
Media Violation No. Municipal Solid Waste
 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	\$10,000	26-Oct-2021	2-Oct-2022	0.93	\$467	n/a	\$467
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated delayed cost to complete and submit an NOI to conduct recycling activities through the State of Texas Environmental Electronic Reporting System ("STEERS"). The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$467

Screening Date 29-Dec-2021 **Docket No.** 2022-0336-MLM-E **PCW**
Respondent Stoney River Ranch, LLC dba Wise Topsoil and Gravel *Policy Revision 5 (January 28, 2021)*
Case ID No. 61745 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111363354
Media Municipal Solid Waste
Enf. Coordinator Eresha DeSilva

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"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10.0%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<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 Stoney River Ranch, LLC dba Wise Topsoil and Gravel
Case ID No. 61745
Reg. Ent. Reference No. RN111363354
Media Violation No. Municipal Solid Waste
 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,028	26-Oct-2021	2-Oct-2022	0.93	\$235	n/a	\$235

Notes for DELAYED costs

Estimated delayed cost to provide financial assurance for the closure of the Site. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance	\$5,028	26-Oct-2021	29-Dec-2021	0.18	\$25	\$882	\$907
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to provide financial assurance for the closure of the Site. The Date Required is the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$5,910

TOTAL

\$1,142

Screening Date 29-Dec-2021 **Docket No.** 2022-0336-MLM-E **PCW**
Respondent Stoney River Ranch, LLC dba Wise Topsoil and Gravel *Policy Revision 5 (January 28, 2021)*
Case ID No. 61745 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111363354
Media Municipal Solid Waste
Enf. Coordinator Eresha DeSilva

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)
Violation Description Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 20 cubic yards of municipal solid waste ("MSW") consisting of wood, metals, and plastics were burned at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual			X	Percent 15.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

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

Violation Subtotal \$3,750

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

Estimated EB Amount \$325 **Violation Final Penalty Total** \$4,058

This violation Final Assessed Penalty (adjusted for limits) \$4,058

Economic Benefit Worksheet

Respondent Stoney River Ranch, LLC dba Wise Topsoil and Gravel
Case ID No. 61745
Reg. Ent. Reference No. RN111363354
Media Violation No. Municipal Solid Waste 3

Percent Interest	Years of Depreciation
5.0	15

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

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

Notes for DELAYED costs

Estimated delayed cost is included in Violation No. 4.

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	\$322	25-Oct-2021	29-Dec-2021	0.18	\$3	\$322	\$325
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to properly dispose of approximately 20 cubic yards of MSW at an authorized facility rather than burning it. The Date Required is one day prior to the investigation date, and the Final Date is the screening date.

Approx. Cost of Compliance \$322

TOTAL \$325

Screening Date 29-Dec-2021 **Docket No.** 2022-0336-MLM-E **PCW**
Respondent Stoney River Ranch, LLC dba Wise Topsoil and Gravel *Policy Revision 5 (January 28, 2021)*
Case ID No. 61745 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111363354
Media Municipal Solid Waste
Enf. Coordinator Eresha DeSilva

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 330.15(a) and (c)
Violation Description Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, approximately 40 cubic yards of MSW, consisting of metals, wood, plastics, and burned materials were disposed of at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual			x	Percent 15.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 64 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the October 26, 2021 investigation date to the December 29, 2021 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$3,750

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

Estimated EB Amount \$43 **Violation Final Penalty Total** \$4,058

This violation Final Assessed Penalty (adjusted for limits) \$4,058

Economic Benefit Worksheet

Respondent Stoney River Ranch, LLC dba Wise Topsoil and Gravel
Case ID No. 61745
Reg. Ent. Reference No. RN111363354
Media Violation No. Municipal Solid Waste
 4

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	\$931	26-Oct-2021	2-Oct-2022	0.93	\$43	n/a	\$43
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to remove all MSW from the Site and dispose of it at an authorized facility. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$931

TOTAL \$43

Screening Date 29-Dec-2021 **Docket No.** 2022-0336-MLM-E **PCW**
Respondent Stoney River Ranch, LLC dba Wise Topsoil and Gravel *Policy Revision 5 (January 28, 2021)*
Case ID No. 61745 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111363354
Media Municipal Solid Waste
Enf. Coordinator Eresha DeSilva

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)
Violation Description Failed to obtain authorization to discharge stormwater associated with industrial activities. Specifically, the Respondent was operating industrial activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR050000.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10.0%
	100% of the rule requirement was not met.				

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 64

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the October 26, 2021 investigation date to the December 29, 2021 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$2,500

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

Estimated EB Amount \$128 **Violation Final Penalty Total** \$2,705

This violation Final Assessed Penalty (adjusted for limits) \$2,705

Economic Benefit Worksheet

Respondent Stoney River Ranch, LLC dba Wise Topsoil and Gravel
Case ID No. 61745
Reg. Ent. Reference No. RN111363354
Media Violation No. Municipal Solid Waste 5

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	\$225	26-Oct-2021	2-Oct-2022	0.93	\$11	n/a	\$11
Other (as needed)	\$2,500	26-Oct-2021	2-Oct-2022	0.93	\$117	n/a	\$117

Notes for DELAYED costs

Actual cost to submit an NOI through STEERS to obtain authorization to discharge stormwater (\$225). The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Estimated delayed cost to develop and implement a stormwater pollution prevention plan (\$2,500). The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,725

TOTAL

\$128



Compliance History Report

Compliance History Report for CN605949387, RN111363354, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN605949387, Stoney River Ranch, LLC	Classification:	NOT APPLICABLE	Rating:	N/A
Regulated Entity:	RN111363354, Wise Topsoil and Gravel	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	1469 Highway 183 North, Liberty Hill, Williamson County, Texas 78642				
TCEQ Region:	REGION 11 - AUSTIN				
ID Number(s):					
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER	R11111363354				
Compliance History Period:	September 01, 2016 to August 31, 2021	Rating Year:	2021	Rating Date:	09/01/2021
Date Compliance History Report Prepared:	March 23, 2022				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	March 23, 2017 to March 23, 2022				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Ken Moller	Phone:	(512) 239-6111		

Site and Owner/Operator History:

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

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

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

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

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

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

N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOV's Issued During Component Period 3/23/2017 and 3/23/2022

N/A

Appendix B

All Investigations Conducted During Component Period March 23, 2017 and March 23, 2022

Item 1 November 30, 2021 (1765123)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2016 and 08/31/2021.

For
Informational
Purposes
Only

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
STONEY RIVER RANCH, LLC DBA
WISE TOPSOIL AND GRAVEL
RN111363354

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2022-0336-MLM-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 Stoney River Ranch, LLC dba Wise Topsoil and Gravel (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an unauthorized recycling and disposal site located at 1469 Highway 183 North in Liberty Hill, Williamson County, Texas (the "Site"). The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12); involves or involved the management of municipal solid waste ("MSW"), as defined in TEX. HEALTH & SAFETY CODE ch. 361; and is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
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 chs. 361 and 382, TEX. WATER CODE ch. 26, 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 \$16,232 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$12,986 of the penalty and \$3,246 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance

with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, 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.

II. ALLEGATIONS

During an investigation conducted at the Site from October 12, 2021, through October 26, 2021, an investigator documented that the Respondent:

1. Failed to submit a Notice of Intent ("NOI") prior to the commencement of recycling activities, in violation of 30 TEX. ADMIN. CODE § 328.5(b). Specifically, the Respondent accepted and processed wood for recycling prior to providing notice to the TCEQ.
2. Failed to establish and maintain adequate financial assurance for the closure of a facility that stores combustible materials outdoors, in violation of 30 TEX. ADMIN. CODE § 328.5(d).
3. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, approximately 20 cubic yards of MSW consisting of wood, metals, and plastics were burned at the Site.
4. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c). Specifically, approximately

40 cubic yards of MSW, consisting of metals, wood, plastics, and burned materials were disposed of at the Site.

5. Failed to obtain authorization to discharge stormwater associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, the Respondent was operating industrial activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR050000.

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: Stoney River Ranch, LLC dba Wise Topsoil and Gravel, Docket No. 2022-0336-MLM-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. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order:
 - i. Cease all unauthorized recycling activities until such time as authorization has been obtained, in accordance with 30 TEX. ADMIN. CODE § 328.5;
 - ii. Cease all unauthorized burning of MSW at the Site; and
 - iii. Cease all unauthorized MSW disposal at the Site.
 - b. Within 30 days after the effective date of this Order:

- i. Develop and implement a Stormwater Pollution Prevention Plan to comply with the requirements of TPDES General Permit No. TXR050000, in accordance with 30 TEX. ADMIN. CODE § 281.25; and
 - ii. Submit an NOI through the State of Texas Environmental Electronic Reporting System (“STEERS”) to obtain authorization to discharge stormwater.
 - c. In addition, comply with either Ordering Provision No. 2.c.i or 2.c.ii below:
 - i. Within 30 days after the effective date of this Order, remove all combustible recyclable materials and MSW from the Site and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 330.15; or
 - ii. Within 30 days after the effective date of this Order:
 1. Complete and submit an NOI through STEERS to conduct recycling activities, in accordance with 30 TEX. ADMIN. CODE § 328.5;
 2. Provide financial assurance for the Site, in accordance with 30 TEX. ADMIN. CODE § 328.5; and
 3. Remove all unauthorized MSW from the Site, and dispose of it at an authorized facility, in accordance with 30 TEX. ADMIN. CODE § 330.15.
 - d. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a, 2.b, and 2.c. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon 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.
5. 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.
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 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be

copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



1/3/2024

For the Executive Director

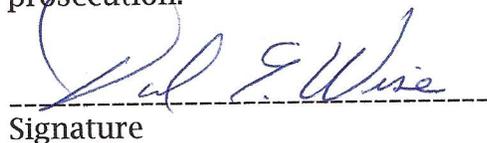
Date

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

12-20-2023

Date

DAVID E. WISE

Name (Printed or typed)
Authorized Representative of
Stoney River Ranch, LLC dba Wise Topsoil and Gravel

MANAGER, STONEY
RIVER RANCH
LLC

Title

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.