

**Executive Summary – Enforcement Matter – Case No. 62146
Balcones Resources, Inc.
RN111349312
Docket No. 2022-0411-MLM-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM – MSW, WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Taylor Facility, 9801 Chandler Road, Taylor, Williamson County County

Type of Operation:

Recycling facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 12, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,494

Amount Deferred for Expedited Settlement: \$1,698

Total Paid to General Revenue: \$6,796

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

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: January 24, 2022

Date(s) of NOE(s): March 11, 2022

Executive Summary – Enforcement Matter – Case No. 62146
Balcones Resources, Inc.
RN111349312
Docket No. 2022-0411-MLM-E

Violation Information

1. Failed to submit a Notice of Intent prior to the commencement of recycling activities. Specifically, the Respondent accepted and processed glass, plastic, metal, paper, and old corrugated containers prior to providing notice to the TCEQ [30 TEX. ADMIN. CODE § 328.5(b)].
2. Failed to establish and maintain financial assurance for closure of the Facility that stores combustible materials outdoors [30 TEX. ADMIN. CODE §§ 328.5(d) and 37.921(a)].
3. Failed to have a fire prevention and suppression plan and make it available to the local fire prevention authority [30 TEX. ADMIN. CODE § 328.5(h)].
4. Failed to maintain a complete stormwater pollution prevention plan ("SWP3"). Specifically, the names of the company staff and the pollution Team were out of date in the SWP3 plan. Additionally, the Respondent did not update the SWP3 to include quarterly visual monitoring and rain gauge records [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System Multi-Sector General Permit No. TXR05FB35, Part III, Sections A.1(a), A.2, A.5, B.3(c), and D.1(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. Submitting a Notice of Intent to conduct recycling activities by March 28, 2022;
- b. Providing financial assurance for closure of the Facility by February 1, 2022;
- c. Implementing a fire prevention and suppression plan and making it available to the local fire prevention authority by January 28, 2022; and
- d. Updating the names of the company staff and the pollution Team in the SWP3 and updating the SWP3 to include quarterly visual monitoring and rain gauge records by February 2, 2022.

Technical Requirements:

N/A

Executive Summary – Enforcement Matter – Case No. 62146
Balcones Resources, Inc.
RN111349312
Docket No. 2022-0411-MLM-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Stephanie McCurley, Enforcement Division,
Enforcement Team 3, MC 219, (512) 239-2607; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

Respondent: Russell Getter, President, Balcones Resources, Inc., 9301 Johnny Morris
Road, Austin, Texas 78724

Robert Espinosa, Chief Operating Officer, Balcones Resources, Inc., 9301 Johnny Morris
Road, Austin, Texas 78724

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	14-Mar-2022	Screening	24-Mar-2022	EPA Due	
	PCW	14-Apr-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Balcones Resources, Inc.
Reg. Ent. Ref. No.	RN111349312
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	62146	No. of Violations	4
Docket No.	2022-0411-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Hailey Johnson
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,875
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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	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$1,187
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Notes	Reduction for High Performer classification.
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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	-\$2,218
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$110	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$10,573	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,470
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.3%	Adjustment	\$24
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with Violation No. 2.
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Final Penalty Amount	\$8,494
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,494
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,698
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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	\$6,796
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Screening Date 24-Mar-2022

Docket No. 2022-0411-MLM-E

PCW

Respondent Balcones Resources, Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 62146

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111349312

Media Municipal Solid Waste

Enf. Coordinator Hailey Johnson

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)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 24-Mar-2022
Respondent Balcones Resources, Inc.
Case ID No. 62146
Reg. Ent. Reference No. RN111349312
Media Municipal Solid Waste
Enf. Coordinator Hailey Johnson

Docket No. 2022-0411-MLM-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number

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 glass, plastic, metal, paper, and old corrugated containers prior to providing notice to the TCEQ.

Base Penalty

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

OR

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

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two monthly events are recommended from the January 24, 2022 investigation date to the March 24, 2022 screening date.

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

Notes

The Respondent submitted an NOI to conduct recycling activities by March 28, 2022, after the March 11, 2022 Notice of Enforcement ("NOE").

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 Balcones Resources, Inc.
Case ID No. 62146
Reg. Ent. Reference No. RN111349312
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	24-Jan-2022	28-Mar-2022	0.17	\$86	n/a	\$86
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. The Date Required is the investigation date, 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

\$10,000

TOTAL

\$86

Screening Date 24-Mar-2022 **Docket No.** 2022-0411-MLM-E **PCW**
Respondent Balcones Resources, Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 62146 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111349312
Media Municipal Solid Waste
Enf. Coordinator Hailey Johnson

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="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 checked="" type="text" value="x"/>	<input type="text"/>
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 Balcones Resources, Inc.
Case ID No. 62146
Reg. Ent. Reference No. RN111349312
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

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

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance	\$1,071	24-Jan-2022	1-Feb-2022	0.02	\$1	\$23	\$24
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 closure of the Facility. The Date Required is the investigation date, and the Final Date is the date of compliance.							

Approx. Cost of Compliance \$23

TOTAL \$24

Screening Date 24-Mar-2022 **Docket No.** 2022-0411-MLM-E **PCW**
Respondent Balcones Resources, Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 62146 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111349312
Media Municipal Solid Waste
Enf. Coordinator Hailey Johnson

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 328.5(h)
Violation Description Failed to have a fire prevention and suppression plan and make it available to the local fire prevention authority.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would 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 4 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the January 24, 2022 investigation date to the January 28, 2022 date of compliance.

Good Faith Efforts to Comply 25.0% Reduction \$937

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

Notes The Respondent implemented a fire prevention and suppression plan and made it available to the local fire prevention authority by January 28, 2022, before the March 11, 2022 NOE.

Violation Subtotal \$2,813

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$2,445

This violation Final Assessed Penalty (adjusted for limits) \$2,445

Economic Benefit Worksheet

Respondent Balcones Resources, Inc.
Case ID No. 62146
Reg. Ent. Reference No. RN111349312
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	24-Jan-2022	28-Jan-2022	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to make the fire prevention and suppression plan available to the local fire prevention authority. The Date Required is the investigation date, 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

\$250

TOTAL

\$0

Screening Date 24-Mar-2022 **Docket No.** 2022-0411-MLM-E **PCW**
Respondent Balcones Resources, Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 62146 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111349312
Media Municipal Solid Waste
Enf. Coordinator Hailey Johnson

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05FB35, Part III, Sections A.1(a), A.2, A.5, B.3(c), and D.1(c)

Violation Description Failed to maintain a complete stormwater pollution prevention plan ("SWP3"). Specifically, the names of the company staff and the pollution Team were out of date in the SWP3 plan. Additionally, the Respondent did not update the SWP3 to include quarterly visual monitoring and rain gauge records.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release		Harm		Percent
	Major	Moderate	Minor		
	Actual				
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
		x		2.5%

Matrix Notes Between 70% and 30% of the rule requirements were not met.

Adjustment \$24,375

\$625

Violation Events

Number of Violation Events 1 9 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$625

One quarterly event is recommended from the January 24, 2022 investigation date to the February 2, 2022 date of compliance.

Good Faith Efforts to Comply 25.0% Reduction \$156

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

Notes The Respondent updated the names of the company staff and the pollution Team in the SWP3 and updated the SWP3 to include quarterly visual monitoring and rain gauge records by February 2, 2022, before the March 11, 2022 NOE.

Violation Subtotal \$469

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$408

This violation Final Assessed Penalty (adjusted for limits) \$408

Economic Benefit Worksheet

Respondent Balcones Resources, Inc.
Case ID No. 62146
Reg. Ent. Reference No. RN111349312
Media Municipal Solid Waste
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

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	\$50	24-Jan-2022	2-Feb-2022	0.02	\$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)	\$250	24-Jan-2022	2-Feb-2022	0.02	\$0	n/a	\$0
Notes for DELAYED costs	Estimated delayed cost to update the names of the company staff and the pollution Team in the SWP3 (\$250) and estimated delayed cost to update the SWP3 to include quarterly visual monitoring and rain gauge records (\$50). The Dates Required are the investigation date, and the Final Dates are 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 \$300

TOTAL \$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN601342256, RN111349312, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN601342256, Balcones Resources, Inc. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN111349312, Taylor Facility **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 9801 Chandler Road, Taylor, Williamson County, Texas 76574

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):
MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 100559 **STORMWATER PERMIT** TXR05FB35

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: March 24, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 24, 2017 to March 24, 2022

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

Site and Owner/Operator History:

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

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

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

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
Item 1 March 10, 2022 (1797020)

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
BALCONES RESOURCES, INC.
RN111349312

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0411-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 Balcones Resources, Inc. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 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 operates a recycling facility located at 9801 Chandler Road in Taylor, Williamson County, Texas (the "Facility"). The Facility is near or adjacent to water in the state, as defined in TEX. WATER CODE § 26.001(5), and involves or involved the management of municipal solid waste ("MSW"), as defined in TEX. HEALTH & SAFETY CODE ch. 361.
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. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$8,494 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$6,796 of the penalty and \$1,698 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.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. By submitting a Notice of Intent ("NOI") to conduct recycling activities by March 28, 2022;
 - b. By providing financial assurance for closure of the Facility by February 1, 2022;
 - c. By implementing a fire prevention and suppression plan and making it available to the local fire prevention authority by January 28, 2022; and
 - d. By updating the names of the company staff and the pollution Team in the stormwater pollution prevention plan ("SWP3") and updating the SWP3 to include quarterly visual monitoring and rain gauge records by February 2, 2022.

II. ALLEGATIONS

During an investigation conducted on January 24, 2022, an investigator documented that the Respondent:

1. Failed to submit an NOI prior to the commencement of recycling activities, in violation of 30 TEX. ADMIN. CODE § 328.5(b). Specifically, the Respondent accepted and processed glass, plastic, metal, paper, and old corrugated containers prior to providing notice to the TCEQ.
2. Failed to establish and maintain financial assurance for closure of the Facility that stores combustible materials outdoors, in violation of 30 TEX. ADMIN. CODE §§ 328.5(d) and 37.921(a).
3. Failed to have a fire prevention and suppression plan and make it available to the local fire prevention authority, in violation of 30 TEX. ADMIN. CODE § 328.5(h).
4. Failed to maintain a complete SWP3, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05FB35, Part III, Sections A.1(a), A.2, A.5, B.3(c), and D.1(c). Specifically, the names of the company staff and the pollution Team were out of date in the SWP3 plan. Additionally, the Respondent did not update the SWP3 to include quarterly visual monitoring and rain gauge records.

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: Balcones Resources, Inc., Docket No. 2022-0411-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. 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 Facility operations referenced in this Order.
4. 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.
5. 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.
6. 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.


7. 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



For the Executive Director

12/5/2022

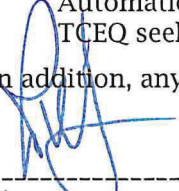
Date

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

6/2/2022

Date

ROBERT ESPINOSA

Name (Printed or typed)
Authorized Representative of
Balcones Resources, Inc.

COO

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.