

**Executive Summary – Enforcement Matter – Case No. 62316
Zachary Bice, Dana Riley, and Sandra Mitchell
RN111442463
Docket No. 2022-0541-MLM-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - AIR, MSW

Small Business:

No

Location(s) Where Violation(s) Occurred:

Uvalde CAD Property ID 24010 Private Residence, 3500 Block, Farm-to-Market Road
1050 and Cherry Creek Ranch Road, Concan, Uvalde County

Type of Operation:

Unauthorized municipal solid waste ("MSW") site

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: January 20, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,138

Amount Deferred for Expedited Settlement: \$2,027

Total Paid to General Revenue: \$8,111

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): January 26, 2022

Complaint Information: Alleged that tires had been collected for cash from local
businesses, brought to a pit located on the property, and burned. The Utopia Fire
Department was called out to the site to put out burning tires.

Date(s) of Investigation: February 16, 2022

Date(s) of NOE(s): March 18, 2022

Executive Summary – Enforcement Matter – Case No. 62316
Zachary Bice, Dana Riley, and Sandra Mitchell
RN111442463
Docket No. 2022-0541-MLM-E

Violation Information

1. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, 83 cubic yards of MSW consisting of burnt tire remains, charred tire radials, charred construction and demolition debris, charred tree limbs, burnt mattress remains, and a charred bed frame were disposed of at the Site [30 TEX. ADMIN. CODE § 330.15(c)].

2. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 500 tires and 0.50 cubic yards of MSW consisting of construction and demolition debris, tree limbs, and a mattress were burned at the Site [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondents to:

a. Immediately:

i. Cease disposal of any additional MSW; and

ii. Cease all unauthorized burning of MSW.

b. Within 30 days, remove all MSW and dispose of it at an authorized facility.

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

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Courtney Gooris, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5863; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondents: Sandra Mitchell, Property Owner, P.O. Box 226, Rio Frio, Texas 78879

Zachary Bice, Operator, P.O. Box 226, Rio Frio, Texas 78879

Dana Riley, Operator, P.O. Box 226, Rio Frio, Texas 78879

Respondents' Attorney: Ana Maria Marsland, Attorney, Davis, Gerald & Cremer, 300 West Sixth Street, Suite 1830, Austin, Texas 78701



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	21-Mar-2022	Screening	6-May-2022	EPA Due	
	PCW	9-May-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Zachary Bice, Dana Riley, and Sandra Mitchell
Reg. Ent. Ref. No.	RN111442463
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	62316	No. of Violations	2
Docket No.	2022-0541-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Air	Enf. Coordinator	Courtney Gooris
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for Compliance History.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$2,705
 Estimated Cost of Compliance: \$4,079
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	35.2%	Adjustment	\$2,638
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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.

Final Penalty Amount	\$10,138
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,138
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,027
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$8,111
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Screening Date 6-May-2022

Docket No. 2022-0541-MLM-E

PCW

Respondent Zachary Bice, Dana Riley, and Sandra Mitchell

Policy Revision 5 (January 28, 2021)

Case ID No. 62316

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111442463

Media Municipal Solid Waste

Enf. Coordinator Courtney Gooris

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)

Unclassified

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 6-May-2022 Docket No. 2022-0541-MLM-E

PCW

Respondent Zachary Bice, Dana Riley, and Sandra Mitchell

Policy Revision 5 (January 28, 2021)

Case ID No. 62316

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111442463

Media Municipal Solid Waste

Enf. Coordinator Courtney Gooris

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, 83 cubic yards of MSW consisting of burnt tire remains, charred tire radials, charred construction and demolition debris, charred tree limbs, burnt mattress remains, and a charred bed frame were disposed of at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> 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 79 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 February 16, 2022 investigation date to the May 6, 2022 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 Respondents do 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 \$67

Violation Final Penalty Total \$5,069

This violation Final Assessed Penalty (adjusted for limits) \$5,069

Economic Benefit Worksheet

Respondent Zachary Bice, Dana Riley, and Sandra Mitchell
Case ID No. 62316
Reg. Ent. Reference No. RN111442463
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	\$1,469	16-Feb-2022	15-Jan-2023	0.91	\$67	n/a	\$67
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

\$1,469

TOTAL

\$67

Screening Date 6-May-2022 **Docket No.** 2022-0541-MLM-E **PCW**
Respondent Zachary Bice, Dana Riley, and Sandra Mitchell *Policy Revision 5 (January 28, 2021)*
Case ID No. 62316 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111442463
Media Municipal Solid Waste
Enf. Coordinator Courtney Gooris

Violation Number

Rule Cite(s)

Violation Description
 Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 500 tires and 0.50 cubic yards of MSW consisting of construction and demolition debris, tree limbs, and a mattress were burned at the Site.

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" value="x"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

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 type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes
 The Respondents do not meet the good faith criteria for this violation.

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 Zachary Bice, Dana Riley, and Sandra Mitchell
Case ID No. 62316
Reg. Ent. Reference No. RN111442463
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

Estimated delayed cost is included in Violation No. 1.

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	\$2,610	15-Feb-2022	6-May-2022	0.22	\$28	\$2,610	\$2,638
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to properly dispose of approximately 500 tires (\$2,500, \$5 per tire) and 0.50 cubic yards of MSW (\$110) at an authorized facility rather than burning. The Date Required is one day prior to the investigation date and the Final Date is the screening date.

Approx. Cost of Compliance

\$2,610

TOTAL

\$2,638

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Compliance History Report

Compliance History Report for CN605988633, RN111442463, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator:	CN605988633, Zachary Bice	Classification: UNCLASSIFIED	Rating: -----
Regulated Entity:	RN111442463, Uvalde CAD PROP ID 24010 Private Residence	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	0	Repeat Violator: NO	
CH Group:	14 - Other		
Location:	3500 Block, Farm-to-Market Road 1050 and Cherry Creek Ranch Road, Concan, Uvalde County, Texas 78838		
TCEQ Region:	REGION 13 - SAN ANTONIO		
ID Number(s):			
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER	R13111442463	AIR QUALITY NON PERMITTED ID NUMBER	R13111442463
Compliance History Period:	September 01, 2017 to August 31, 2022	Rating Year: 2022	Rating Date: 09/01/2022
Date Compliance History Report Prepared:	October 06, 2022		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	October 06, 2017 to October 06, 2022		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Courtney Gooris	Phone:	(817) 588-5863

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

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 CN605988625, RN111442463, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator:	CN605988625, Dana Riley	Classification:	UNCLASSIFIED	Rating:	-----
Regulated Entity:	RN111442463, Uvalde CAD PROP ID 24010 Private Residence	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	3500 Block, Farm-to-Market Road 1050 and Cherry Creek Ranch Road, Concan, Uvalde County, Texas 78838				
TCEQ Region:	REGION 13 - SAN ANTONIO				
ID Number(s):					
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER	R13111442463	AIR QUALITY NON PERMITTED ID NUMBER	R13111442463		
Compliance History Period:	September 01, 2017 to August 31, 2022	Rating Year:	2022	Rating Date:	09/01/2022
Date Compliance History Report Prepared:	October 06, 2022				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	October 06, 2017 to October 06, 2022				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Courtney Gooris	Phone:	(817) 588-5863		

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

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 CN605988617, RN111442463, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator:	CN605988617, Sandra Page Mitchell	Classification: UNCLASSIFIED	Rating: -----
Regulated Entity:	RN111442463, Uvalde CAD PROP ID 24010 Private Residence	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	0	Repeat Violator: NO	
CH Group:	14 - Other		
Location:	3500 Block, Farm-to-Market Road 1050 and Cherry Creek Ranch Road, Concan, Uvalde County, Texas 78838		
TCEQ Region:	REGION 13 - SAN ANTONIO		
ID Number(s):			
MUNICIPAL SOLID WASTE NON PERMITTED ID NUMBER	R13111442463	AIR QUALITY NON PERMITTED ID NUMBER	R13111442463
Compliance History Period:	September 01, 2017 to August 31, 2022	Rating Year: 2022	Rating Date: 09/01/2022
Date Compliance History Report Prepared:	October 06, 2022		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	October 06, 2017 to October 06, 2022		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Courtney Gooris	Phone:	(817) 588-5863

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ZACHARY BICE, DANA RILEY, AND
SANDRA MITCHELL
RN111442463

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0541-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 Zachary Bice, Dana Riley, and Sandra Mitchell (the "Respondents") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents together stipulate that:

1. Sandra Mitchell owns, Dana Riley tenants, and Zachary Bice operated an unauthorized municipal solid waste ("MSW") disposal site located at 3500 Block, Farm-to-Market Road 1050 and Cherry Creek Ranch Road in Concan, Uvalde County, Texas (the "Site"). The Site involves or involved the management of MSW, including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Site consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE ch. 382.003(12).
2. The Executive Director and the Respondents 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 Respondents are 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 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 Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$10,138 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents paid \$8,111 of the penalty and \$2,027 is deferred contingent upon the Respondents' 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 Respondents fail 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 Respondents 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 timelier 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 Respondents have 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 on February 16, 2022, an investigator documented that the Respondents:

1. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c). Specifically, 83 cubic yards of MSW consisting of burnt tire remains, charred tire radials, charred construction and demolition debris, charred tree limbs, burnt mattress remains, and a charred bed frame were disposed of at the Site.
2. 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 500 tires and 0.50 cubic yards of MSW consisting of construction and demolition debris, tree limbs, and a mattress were burned at the Site.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondents are assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondents' 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: Zachary Bice, Dana Riley, and Sandra Mitchell, Docket No. 2022-0541-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 Respondents are jointly and severally liable for the violations documented in this Order and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Order.
3. The Respondents shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order:
 - i. Cease disposal of any additional MSW at the Site; and
 - ii. Cease all unauthorized burning of MSW at the Site.
 - b. Within 30 days after the effective date of this Order, remove all MSW from the Site and dispose of it at an authorized facility.
 - c. 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. 3.a and 3.b. The certification shall be signed by the Respondents and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

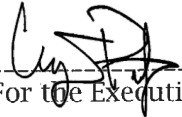
4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
6. If the Respondents fail to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondents' failure to comply is not a violation of this Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
8. This Order, issued by the Commission, shall not be admissible against the Respondents 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.
9. 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.
10. 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



5/25/2023

For the Executive Director

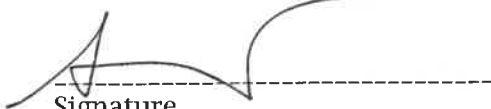
Date

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

5/10/23

Date

Ana Maria Marsland

Attorney

Name (Printed or typed)
Authorized Representative of
Sandra Mitchell

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

5/25/2023

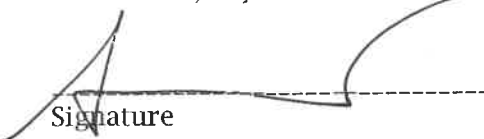
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- TCEQ seeking other relief as authorized by law.

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



Signature

Date

5/10/23

Ana Maria Marsland

Name (Printed or typed)
Authorized Representative of
Dana Riley

Title

Attorney

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

5/25/2023

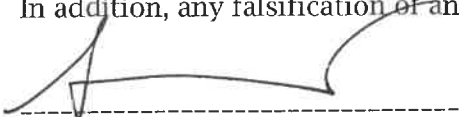
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- TCEQ seeking other relief as authorized by law.

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



Signature

Date

5/10/23

Ana Maria Marsland

Name (Printed or typed)
Authorized Representative of
Zachary Bice

Title

Attorney

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