

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel
Dinniah Tadema, Assistant General Counsel

Thru: JSR Jess Robinson, Senior Attorney
Litigation Division

From: A'twar Wilkins, Staff Attorney
Litigation Division AW

Date: March 27, 2025

Subject: **Backup Revision**
April 3, 2025 Commission Agenda
Item No. 15 - Antonio Munoz Aserradero, LLC
Docket No. 2022-0712-MLM-E

Enclosed please find the following:

Page 2 of the Executive Summary:

Correction of a typographical error in Violation Information Section, Item 2, from
"Municiple" to "Municipal"

Counsel for Respondent:

Mike Kesler, Attorney
Kesler Law Firm
318 Neches Street
Jacksonville, Texas 75766

Respondent Contact:

Antonio Munoz, Antonio Munoz Aserradero, LLC
3023 Farm-to-Market Road 347 North
Rusk, Texas 75785

Please do not hesitate to call me at (512) 239-6515 if you have any questions regarding this matter.

cc: Desmond Martin, Enforcement Division
Michelle Baetz, Tyler Regional Office
Gill Valls, Office of the General Counsel
Michael Parrish, Enforcement Division
Leslie Gann, Enforcement Division
Stuart Beckley, Enforcement Division
Mike Kesler, Counsel for Respondent

Antonio Munoz Aserradero, LLC

RN110636800

Docket No. 2022-0712-MLM-E

Violation Information

1. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201].
2. Caused, suffered, allowed, or permitted the unauthorized disposal of Municipal-Solid Waste ("MSW") [30 TEX. ADMIN. CODE § 330.15(c)].
3. Failed to obtain authorization prior to constructing or modifying a source of air contaminants [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately upon the effective date:
 - a. Cease disposal of any additional MSW at the Site; and
 - b. Cease all unauthorized burning of MSW at the Site.
2. Within 30 days:
 - a. Remove all unauthorized MSW from the Site and dispose of it at an authorized facility; and
 - b. Submit an administratively complete: Permits by Rule registration, to authorize the sawmill at the Site and the associated air emissions.
3. Respond completely and adequately to all requests for information concerning the Permits by Rule registration, standard permit registration, or permit application by any deadline specified in writing.
4. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1. and 2.
5. Within 180 days submit written certification that either authorization for the sawmill at the Site and its associated air emissions has been obtained or that operations have ceased until such time that the appropriate authorization will be obtained.

Litigation Information

Date Petition Filed: November 11, 2024

Date of Service: November 26, 2024

Date Answer(s) Filed: N/A

Settlement Date: January 10, 2025

Contact Information

TCEQ Attorneys: A'twar Wilkins, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Desmond Martin, Enforcement Division, (512) 239-2814

TCEQ Regional Contact: Michelle Batz, Tyler Regional Office, (903) 535-5100

Respondent Contact: Antonio Munoz, Antonio Munoz Aserradero, LLC, 3023 Farm-to-Market Road
347 North, Rusk, Texas 75785

Respondent's Attorney: Mike Kesler, Kesler Law Firm, 318 Neches Street, Jacksonville, Texas 75766

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 62397
Antonio Munoz Aserradero, LLC
RN110636800
Docket No. 2022-0712-MLM-E

Page 2 of 2

Violation Information

1. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201].
2. Caused, suffered, allowed, or permitted the unauthorized disposal of Municipal Solid Waste ("MSW") [30 TEX. ADMIN. CODE § 330.15(c)].
3. Failed to obtain authorization prior to constructing or modifying a source of air contaminants [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately upon the effective date:
 - a. Cease disposal of any additional MSW at the Site; and
 - b. Cease all unauthorized burning of MSW at the Site.
2. Within 30 days:
 - a. Remove all unauthorized MSW from the Site and dispose of it at an authorized facility; and
 - b. Submit an administratively complete: Permits by Rule registration, to authorize the sawmill at the Site and the associated air emissions.
3. Respond completely and adequately to all requests for information concerning the Permits by Rule registration, standard permit registration, or permit application by any deadline specified in writing.
4. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1. and 2.
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EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 62397
Antonio Munoz Aserradero, LLC
RN110636800
Docket No. 2022-0712-MLM-E

Page 1 of 2

Order Type:
Agreed Order

Media:
MLM: AIR and MSW

Small Business:
Yes

Location Where Violations Occurred:
3023 Farm-to-Market Road 347 North, Rusk, Cherokee (the “Site”)

Type of Operation:
sawmill

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: February 21, 2025

Comments Received: None

Penalty Information

Total Penalty Assessed: \$13,989

Total Paid to General Revenue: \$409

Total Due to General Revenue: \$13,580

Payment Plan: payments of \$388 each

Compliance History Classifications:

Person/CN – High
Site/RN – High

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Dates: March 11, 15, and 17, 2022
Complaint Information: On March 11, 15, and 17, 2022, Region 5 - Tyler received an outdoor burning complaint in Cherokee County.

Date of Investigation: March 21, 2022

Date(s) of NOV(s): N/A

Date of NOE: May 6, 2022

Violation Information

1. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201].
2. Caused, suffered, allowed, or permitted the unauthorized disposal of Munciple Solid Waste (“MSW”) [30 TEX. ADMIN. CODE § 330.15(c)].
3. Failed to obtain authorization prior to constructing or modifying a source of air contaminants [TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately upon the effective date:
 - a. Cease disposal of any additional MSW at the Site; and
 - b. Cease all unauthorized burning of MSW at the Site.
2. Within 30 days:
 - a. Remove all unauthorized MSW from the Site and dispose of it at an authorized facility; and
 - b. Submit an administratively complete: Permits by Rule registration, to authorize the sawmill at the Site and the associated air emissions.
3. Respond completely and adequately to all requests for information concerning the Permits by Rule registration, standard permit registration, or permit application by any deadline specified in writing.
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Settlement Date: January 10, 2025

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Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	23-May-2022	Screening	26-May-2022	EPA Due	
	PCW	22-Aug-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	Antonio Munoz Aserradero, LLC				
Reg. Ent. Ref. No.	RN110636800				
Facility/Site Region	5-Tyler	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	62397	No. of Violations	3
Docket No.	2022-0712-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media	Municipal Solid Waste	Enf. Coordinator	Desmond Martin
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$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	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$1,500
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Notes Reduction for High Performer classification.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1,342
Estimated Cost of Compliance \$5,523
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	3.6%	Adjustment	\$489
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided costs of compliance associated with Violation No. 1.

Final Penalty Amount	\$13,989
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,989
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$13,989
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Screening Date	26-May-2022	Docket No.	2022-0712-MLM-E	PCW
Respondent	Antonio Munoz Aserradero, LLC			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	62397			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN110636800			
Media	Air			
Enf. Coordinator	Desmond Martin			

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)

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	26-May-2022	Docket No.	2022-0712-MLM-E	PCW
Respondent	Antonio Munoz Aserradero, LLC	Policy Revision 5 (January 28, 2021)		
Case ID No.	62397	PCW Revision February 11, 2021		
Reg. Ent. Reference No.	RN110636800			
Media	Air			
Enf. Coordinator	Desmond Martin			
Violation Number	1			
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, on March 21, 2022, TCEQ staff documented that approximately 4.0 cubic yards of municipal solid waste ("MSW") consisting of wood, plastic straps, metal, and garbage such as plastic water bottles and aluminum cans were burned at the Site.			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes		Falsification			
		Major	Moderate	Minor	
					Percent 0.0%
Human health or the environment has been exposed to insignificant amounts of pollutants that did 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		1	Number of violation days
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 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	\$489
Violation Final Penalty Total	\$3,497
This violation Final Assessed Penalty (adjusted for limits)	
\$3,497	

Economic Benefit Worksheet

Respondent Antonio Munoz Aserradero, LLC
Case ID No. 62397
Reg. Ent. Reference No. RN110636800
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$465	12-May-2021	26-May-2022	1.04	\$24	\$465	\$489
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs	Estimated avoided cost to properly dispose of approximately 4.0 cubic yards of MSW at an authorized facility rather than burning. The Date Required is one day prior to the initial investigation and the Final Date is the screening date.						

Approx. Cost of Compliance

\$465

TOTAL

\$489

Screening Date 26-May-2022 Respondent Antonio Munoz Aserradero, LLC Case ID No. 62397 Reg. Ent. Reference No. RN110636800 Media Air Enf. Coordinator Desmond Martin	Docket No. 2022-0712-MLM-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	2	Rule Cite(s)	30 Tex. Admin. Code § 330.15(c)
Violation Description	Caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, on March 21, 2022, TCEQ staff documented that approximately 37.0 cubic yards of MSW were disposed of at the Site.		

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	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 did not exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$21,250
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	\$3,750
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Violation Events

Number of Violation Events	1	66	Number of violation days
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	daily				
	weekly				
	monthly				
	quarterly	x			
	semiannual				
	annual				
	single event				

Violation Base Penalty	\$3,750
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One quarterly event is recommended from the March 21, 2022 investigation date to the May 26, 2022 screening date.	
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Good Faith Efforts to Comply

	0.0%	
	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
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$11
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Statutory Limit Test

Violation Final Penalty Total	\$3,497
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This violation Final Assessed Penalty (adjusted for limits)	\$3,497
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Economic Benefit Worksheet

Respondent Antonio Munoz Aserradero, LLC
Case ID No. 62397
Reg. Ent. Reference No. RN110636800
Media Air
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	\$58	13-May-2021	1-Feb-2025	3.73	\$11	n/a	\$11
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated cost to remove all MSW from the Site and dispose of it at an authorized facility. The Date Required is the initial 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 \$58

TOTAL \$11

Screening Date 26-May-2022 Respondent Antonio Munoz Aserradero, LLC Case ID No. 62397 Reg. Ent. Reference No. RN110636800 Media Air Enf. Coordinator Desmond Martin	Docket No. 2022-0712-MLM-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
Violation Number 3		
Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)		
Violation Description Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent operated a sawmill prior to obtaining the proper authorization. 		
Base Penalty		\$25,000
>> Environmental, Property and Human Health Matrix		
OR	Release Actual Potential	Harm Major Moderate Minor
		Percent 0.0%
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	x	
		Percent 10.0%
Matrix Notes	100% of the rule requirements were not met.	
Adjustment		\$22,500
		\$2,500
Violation Events		
Number of Violation Events 3		845 Number of violation days
daily weekly monthly quarterly semiannual annual single event	x	
		Violation Base Penalty \$7,500
Three monthly events are recommended from the March 21, 2022 investigation date to the May 26, 2022 screening date.		
Good Faith Efforts to Comply		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		\$7,500
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount	\$842	Violation Final Penalty Total \$6,995
This violation Final Assessed Penalty (adjusted for limits)		\$6,995

Economic Benefit Worksheet

Respondent Antonio Munoz Aserradero, LLC
Case ID No. 62397
Reg. Ent. Reference No. RN110636800
Media Air
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	\$5,000	21-Mar-2022	1-Aug-2025	3.37	\$842	n/a	\$842
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain authorization for the sawmill at the Site and the associated air emissions. 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

\$5,000

TOTAL

\$842



Compliance History Report

Compliance History Report for CN605903319, RN110636800, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN605903319, Antonio Munoz Aserradero, LLC	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN110636800, Dyess Sawmill DBA Dialville Sawmill	Classification: HIGH	Rating: 0.00
Complexity Points:	0	Repeat Violator: NO	
CH Group:	14 - Other		
Location:	3023 Farm-to-Market Road 347 North, Rusk, Cherokee County, Texas		
TCEQ Region:	REGION 05 - TYLER		
ID Number(s):			
WATER QUALITY NON PERMITTED ID NUMBER	MUNICIPAL SOLID WASTE NON PERMITTED ID		
R05110636800	NUMBER R05110636800		
Compliance History Period:	September 01, 2018 to August 31, 2023	Rating Year: 2023	Rating Date: 09/01/2023
Date Compliance History Report Prepared:	May 01, 2024		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	May 01, 2019 to May 01, 2024		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Desmond Martin		Phone: (512) 239-2814

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

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 NOVs Issued During Component Period 5/1/2019 and 5/1/2024

1	Date:	07/08/2021	(1737884)		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 111, SubChapter B 111.201 5C THSC Chapter 382 382.085(b)			
	Description:	Failure to meet the general prohibition against outdoor burning.			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 330, SubChapter A 330.15(c) 5C THSC Chapter 382 382.085(b)			
	Description:	Failure to properly dispose of unauthorized materials.			

* NOVs applicable for the Compliance History rating period 9/1/2018 to 8/31/2023

Appendix B

All Investigations Conducted During Component Period May 01, 2019 and May 01, 2024

Item 1 July 08, 2021** (1737884)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2018 and 08/31/2023.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT
ACTION CONCERNING
ANTONIO MUNOZ ASERRADERO, LLC;
RN110636800

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2022-0712-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Antonio Munoz Aserradero, LLC ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE chs. 361 and 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Mike Kesler of Kesler Law Firm, PLLC, together stipulate that:

1. Respondent owns and operates a sawmill located at 3023 Farm-to-Market Road 347 North in Rusk, Cherokee County, Texas (the "Site"). The Site involves or involved the management of municipal solid waste ("MSW"), as defined in TEX. HEALTH & SAFETY CODE ch. 361, and consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003.
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that 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 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$13,989 is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid \$409 of the penalty. The remaining amount of \$13,580 shall be paid in 35 monthly payments of \$388 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at her option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, 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 Respondent has not complied with one or more of the terms or conditions contained 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 full compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

1. During an investigation conducted on and around March 21, 2022, an investigator documented that Respondent:
 - a. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 111.201. Specifically, approximately 4 cubic yards of MSW consisting of wood, plastic straps, metal, and garbage such as plastic water bottles and aluminum cans were burned at the Site;
 - b. Caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c). Specifically, approximately 37 cubic yards of MSW were disposed of at the Site; and
 - c. Failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a). Specifically, Respondent operated a sawmill prior to obtaining the proper authorization.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and 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 actions 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: Antonio Munoz Aserradero, LLC, Docket No. 2022-0712-MLM-E” to:

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

2. Respondent 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:
 - i. Remove all unauthorized MSW from the Site and dispose of it at an authorized facility; and
 - ii. Submit an administratively complete: Permits by Rule registration, in accordance with 30 TEX. ADMIN. CODE ch. 106; standard permit registration, in accordance with 30 TEX. ADMIN. CODE § 116.611; or permit application, in accordance with 30 TEX. ADMIN. CODE § 116.111, to authorize the sawmill at the Site and the associated air emissions, to:

Air Permits Division, MC 163
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- c. Respond completely and adequately, as determined by TCEQ, to all requests for information concerning the Permits by Rule registration, standard permit registration, or permit application by any deadline specified in writing.
- d. Within 45 days after the effective date of this Order, submit written certification as described by Ordering Provision No. 2.f., to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.
- e. Within 180 days after the effective date of this Order, submit written certification as described by Ordering Provision No. 2.f., that either authorization for the sawmill at the Site and its associated air emissions has been obtained or that operations have ceased until such time that the appropriate authorization will be obtained.
- f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

The certifications shall be submitted to:

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

with copies to:

Air Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

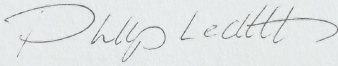
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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.
6. If 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against 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 TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ 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



March 3, 2025

For the Executive Director

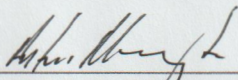
Date

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 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;
- Referral of this case to the Attorney General's office 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 Attorney General's office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature - Antonio Munoz, President
Antonio Munoz Aserradero, LLC
3023 Farm-to-Market Road 347 North
Rusk, Texas 75785

1-10-25.
Date

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