

## **TCEQ Interoffice Memorandum**

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**To:** Mary Smith, General Counsel  
Colleen Ford, Assistant General Counsel

**Thru:** Anna Treadwell, Senior Attorney  
*AMT* Litigation Division

**From:** *TPE* Taylor Pack Ellis, Staff Attorney  
Litigation Division

**Date:** February 23, 2024

**Subject:** **Backup Revision**  
**March 6, 2024 Commission Agenda**  
Draft Item No. 7 - James Shelton  
Docket No. 2022-0760-MSW-E

Enclosed please find the following:

**Page 1 of the Executive Summary adding description of complaint.**

Respondent Contact:

James Shelton  
11775 Carpenter Road  
Beaumont, Texas 77713-8610

Please do not hesitate to call Taylor Pack Ellis at (512) 239-6860 if you have any questions regarding this matter.

cc: Karolyn Kent Enforcement Division  
Charlie Adams, Beaumont Regional Office  
Gill Valls, Office of the General Counsel  
Michael Parrish, Enforcement Division  
Leslie Gann, Enforcement Division  
Stuart Beckley, Enforcement Division

James Shelton  
RN111385746  
Docket No. 2022-0760-MSW-E

**Order Type:**  
Default Order

**Media:**  
MSW

**Small Business:**  
N/A

**Location(s) Where Violation(s) Occurred:**  
11775 Carpenter Road, Beaumont, Jefferson County (the "Site")

**Type of Operation:**  
unauthorized municipal solid waste ("MSW") disposal site

**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:** January 26, 2024

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$3,937

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$3,937

**Compliance History Classifications:**  
Person/CN - N/A  
Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date(s):** November 17, 2021 (Incident No. 370239)  
Complainant stated that they had over 100 tires dumped earlier this week, they cleaned them up, and then found a possible culprit. The person has over 300 tires at their residence with around 100 loaded and ready to move (on a trailer). She is concerned that the man will dump them soon either in the river adjacent to his property or somewhere else. She alleges that the man is picking up tires from shops and offering to dispose of them then dumping them. She advises that investigators bring police when they go on site, and she would like to join the investigators on site.

**Date(s) of Investigation:** November 29, 2021 and May 2, 2022

**Date(s) of NOV(s):** January 4, 2022 (hand delivered January 26, 2022)

**Date(s) of NOE(s):** May 31, 2022

**James Shelton****RN111385746****Docket No. 2022-0760-MSW-E****Order Type:**  
Default Order**Media:**  
MSW**Small Business:**  
N/A**Location(s) Where Violation(s) Occurred:**  
11775 Carpenter Road, Beaumont, Jefferson County (the "Site")**Type of Operation:**  
unauthorized municipal solid waste ("MSW") disposal site**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:** January 26, 2024**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$3,937**Total Paid to General Revenue:** \$0**Total Due to General Revenue:** \$3,937**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** January 28, 2021**Investigation Information****Complaint Date(s):** November 17, 2021 (Incident No. 370239)**Date(s) of Investigation:** November 29, 2021 and May 2, 2022**Date(s) of NOV(s):** January 4, 2022 (hand delivered January 26, 2022)**Date(s) of NOE(s):** May 31, 2022

**James Shelton**  
**RN111385746**  
**Docket No. 2022-0760-MSW-E**

**Violation Information**

Caused, suffered, allowed, or permitted the unauthorized disposal of MSW [30 TEX. ADMIN. CODE § 330.15(a) and (c)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately cease the unauthorized disposal of additional scrap tires at the Site.
2. Within 30 days remove all scrap tires from the Site and dispose of them at an authorized facility.
3. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1 and 2.

**Litigation Information**

**Date Petition(s) Filed:** October 25, 2023

**Date(s) of Service:** October 30, 2023

**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Taylor Pack Ellis, 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:** Karolyn Kent, Enforcement Division, (512) 239-2536

**TCEQ Regional Contact:** Charlie Adams, Region 10, Beaumont Regional Office, (409) 898-3838

**Respondent Contact:** James Shelton, Resident, 11775 Carpenter Road, Beaumont, Texas 77713-8610

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	6-Jun-2022	<b>Screening</b>	16-Jun-2022	<b>EPA Due</b>	
	<b>PCW</b>	20-Oct-2022				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	James Shelton
<b>Reg. Ent. Ref. No.</b>	RN111385746
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	62514	<b>No. of Violations</b>	1
<b>Docket No.</b>	2022-0760-MSW-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Karolyn Kent
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$3,750</b>
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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.

<b>Compliance History</b>	<b>5.0%</b>	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$187</b>
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<b>Notes</b>	Enhancement for one NOV with same/similar violations.
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<b>Culpability</b>	No	<b>0.0%</b>	<b>Enhancement</b>	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b>	<b>Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$20
Estimated Cost of Compliance	\$300

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$3,937</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$3,937</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$3,937</b>
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<b>DEFERRAL</b>		<b>Reduction</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$3,937</b>
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<b>Screening Date</b>	16-Jun-2022	<b>Docket No.</b>	2022-0760-MSW-E	<b>PCW</b>
<b>Respondent</b>	James Shelton			
<b>Case ID No.</b>	62514			
<b>Reg. Ent. Reference No.</b>	RN111385746			
<b>Media</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Karolyn Kent			

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

## 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> )	1	5%
	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)** 5%

### >> Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

### >> Compliance History Person Classification (Subtotal 7)

N/A

**Adjustment Percentage (Subtotal 7)** 0%

### >> Compliance History Summary

**Compliance History Notes**

Enhancement for one NOV with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 5%

<b>Screening Date</b>	16-Jun-2022	<b>Docket No.</b>	2022-0760-MSW-E	<b>PCW</b>
<b>Respondent</b>	James Shelton	Policy Revision 5 (January 28, 2021)		
<b>Case ID No.</b>	62514	PCW Revision February 11, 2021		
<b>Reg. Ent. Reference No.</b>	RN111385746			
<b>Media</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Karolyn Kent			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 330.15(a) and (c)			
<b>Violation Description</b>	Caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste. Specifically, 60 scrap tires were disposed of at the Site.			
<b>Base Penalty</b>				\$25,000

>> Environmental, Property and Human Health Matrix

OR

	<b>Release</b>	<b>Harm</b>	
		Major Moderate Minor	
	Actual		X
	Potential		

Percent 15.0%

>> Programmatic Matrix

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	

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

45 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 May 2, 2022 investigation date to the June 16, 2022 screening date.

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.

Reduction \$0

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$20

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

# Economic Benefit Worksheet

**Respondent** James Shelton  
**Case ID No.** 62514  
**Reg. Ent. Reference No.** RN111385746  
**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				0.00	\$0	n/a	\$0
Other (as needed)	\$300	29-Nov-2021	2-Apr-2023	1.34	\$20	n/a	\$20
<b>Notes for DELAYED costs</b> Estimated delayed cost to remove 60 scrap tires from the Site and dispose of them at an authorized facility (\$5 per tire). 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
<b>Notes for AVOIDED costs</b>							

Approx. Cost of Compliance \$300

**TOTAL** \$20





# Compliance History Report

Compliance History Report for CN605962984, RN111385746, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN605962984, James Shelton **Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN111385746, 11775 Carpenter Road **Classification:** NOT APPLICABLE **Rating:** N/A

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

**CH Group:** 14 - Other

**Location:** 11775 Carpenter Road, Beaumont, Jefferson County, Texas 77713-8610

**TCEQ Region:** REGION 10 - BEAUMONT

**ID Number(s):**

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

**Date Compliance History Report Prepared:** June 13, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 13, 2017 to June 13, 2022

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

**Name:** Karolyn Kent **Phone:** (512) 239-2536

## 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.

- 1      Date: 01/04/2022 (1775711)
- Self Report? NO      Classification: Moderate
- Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)
- Description: Failure to comply with the General Prohibitions for the collection, storage, transportation, processing, or disposal of Municipal Solid Waste. B17 // (2) (D)MOD

### **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 6/13/2017 and 6/13/2022**

1	Date:	01/04/2022	(1775711)		
	Self Report?	NO		Classification:	Moderate
	Citation:				
		30 TAC Chapter 330, SubChapter A 330.15(a)			
	Description:	Failure to comply with the General Prohibitions for the collection, storage, transportation, processing, or disposal of Municipal Solid Waste. B17 // (2) (D)MOD			

\* NOVs applicable for the Compliance History rating period 9/1/2016 to 8/31/2021

**Appendix B**

**All Investigations Conducted During Component Period June 13, 2017 and June 13, 2022**

Item 1	May 31, 2022	(1812762)
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\* No violations documented during this investigation

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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JAMES SHELTON;  
RN111385746

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER

DOCKET NO. 2022-0760-MSW-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is James Shelton ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

### FINDINGS OF FACT

1. Respondent operates an unauthorized municipal solid waste ("MSW") disposal site located at 11775 Carpenter Road in Beaumont, Jefferson County, Texas (the "Site"). The Site contains and/or involves the management of MSW, including scrap tires, as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on November 29, 2021 and a follow-up investigation on May 2, 2022, an investigator documented that Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW. Specifically, 60 scrap tires were disposed of at the Site.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of James Shelton" (the "EDPRP") in the TCEQ Chief Clerk's office on October 25, 2023.
4. The EDPRP was hand-delivered to Respondent's last known address on October 30, 2023.
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent caused, suffered, allowed, or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c).
3. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(2).
4. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE

§ 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.

5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of \$3,937 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$3,937 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: James Shelton; Docket No. 2022-0760-MSW-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

3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, cease the unauthorized disposal of additional scrap tires at the Site.
  - b. Within 30 days after the effective date of this Order, remove all scrap tires from the Site and dispose of them at an authorized facility.
  - c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification 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 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 fine and imprisonment for knowing violations."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1830

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
7. 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.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

## UNSWORN DECLARATION OF ABBY LYTLE

“On October 30, 2023, on behalf of the Executive Director of the Texas Commission on Environmental Quality, I hand delivered the October 25, 2023, Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of James Shelton to James Shelton at his last known address.”

“My name is Abby Lytle  
and I am an employee of the following governmental  
agency: Texas Commission on Environmental Quality.  
I am executing this declaration as part of my assigned duties  
and responsibilities. I declare under penalty of perjury  
that the foregoing is true and correct.”

Executed in Jefferson County,  
State of Texas,  
on the 1st day of January 2024

Abby Lytle  
Declarant

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF TAYLOR PACK ELLIS

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of James Shelton' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 25, 2023.

The EDPRP was delivered to Respondent in person at Respondent's last known address on October 30, 2023.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is Taylor Pack Ellis, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,  
State of Texas,  
on the 12th day of December, 2023

TP Ellis  
Declarant