

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 62761
Zuly Rondon dba Texas Star Trucks
RN111481362
Docket No. 2022-1042-MSW-E

Page 1 of 2

Order Type:
Default Order

Media:
MSW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
608 South Baird Street, Unit B, Midland, Midland County (company location);
approximately 100 yards south of the intersection located at Camino Real-Highway 21 and Ganado
Drive, Uhlard, Caldwell County (spill location) (the “Emergency Response Site”)

Type of Operation:
cargo and freight shipping company

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 12, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$2,625
Total Paid to General Revenue: \$0
Total Due to General Revenue: \$2,625

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): N/A
Date(s) of Investigation: April 15, 2022; July 14, 2022
Date(s) of NOV(s): April 22, 2022
Date(s) of NOE(s): August 1, 2022

Violation Information

Failed to submit written information, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge or spill [30 TEX. ADMIN. CODE § 327.5(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days submit a spill incident report and supporting documentation describing the details of the December 6, 2021 spill at the Emergency Response Site and the adequacy of the response action. The report shall address all areas where released MSW was observed at the Emergency Response Site.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement No. 1.

Litigation Information

Date Petition(s) Filed: July 20, 2023; August 10, 2023
Date(s) of Service: unclaimed; August 25, 2023
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jennifer Peltier, 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: Stephanie McCurley, Enforcement Division, (512) 239-2607
TCEQ Regional Contact: Elijah Gandee, Austin Regional Office, (512) 339-2929
Respondent Contact: Zuly Rondon, 8006 Valmy Lane, Port Richey, Florida 34668
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	8-Aug-2022	Screening	16-Aug-2022	EPA Due	
	PCW	21-Nov-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	Zuly Rondon dba Texas Star Trucks
Reg. Ent. Ref. No.	RN111481362
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	62761	No. of Violations	1
Docket No.	2022-1042-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephanie McCurley
		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	\$2,500
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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	5.0%	Adjustment	Subtotals 2, 3, & 7	\$125
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Notes	Enhancement for one previous NOV with same/similar violations.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$35	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$2,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,625
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$2,625
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Screening Date	16-Aug-2022	Docket No.	2022-1042-MSW-E	PCW
Respondent	Zuly Rondon dba Texas Star Trucks			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	62761			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111481362			
Media	Municipal Solid Waste			
Enf. Coordinator	Stephanie McCurley			

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 previous 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%

Screening Date 16-Aug-2022 Respondent Zuly Rondon dba Texas Star Trucks Case ID No. 62761 Reg. Ent. Reference No. RN111481362 Media Municipal Solid Waste Enf. Coordinator Stephanie McCurley	Docket No. 2022-1042-MSW-E 30 Tex. Admin. Code § 327.5(c)	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	1		
Rule Cite(s)			
Violation Description	Failed to submit written information, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge or spill. Specifically, no written report had been submitted to the TCEQ for the spill of diesel fuel that occurred on December 6, 2021.		

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

OR		Release	Harm			
		Major	Moderate	Minor		
	Actual					
	Potential					

	Percent
	0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
		x				

Matrix Notes	100% of the rule requirement was not met.
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Adjustment	\$22,500
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	\$2,500
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Violation Events

Number of Violation Events	1	223	Number of violation days
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	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event	x			

	Violation Base Penalty
	\$2,500

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.
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Violation Subtotal	\$2,500
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$35
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Statutory Limit Test

Violation Final Penalty Total	\$2,625
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This violation Final Assessed Penalty (adjusted for limits)	\$2,625
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Economic Benefit Worksheet

Respondent Zuly Rondon dba Texas Star Trucks
Case ID No. 62761
Reg. Ent. Reference No. RN111481362
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)	\$500	5-Jan-2022	4-Jun-2023	1.41	\$35	n/a	\$35

Notes for DELAYED costs

Estimated cost to submit a spill incident report and supporting documentation describing the details of the spill and the adequacy of the response action. The Date Required is the date the report was due 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

\$500

TOTAL

\$35



Compliance History Report

Compliance History Report for CN606009348, RN111481362, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN606009348, Zuly Rondon	Classification:	NOT APPLICABLE	Rating:	N/A
Regulated Entity:	RN111481362, Emergency Response at Camino Real and Ganado Drive, Uhlend, Texas	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	Approximately 100 yards south of the intersection located at Camino Real-Highway 21 and Ganado Drive in Uhlend, Caldwell County, Texas				
Ganado Drive in Uhlend,	REGION 11 - AUSTIN				
ID Number(s):					
EMERGENCY RESPONSE ID NUMBER	RN11111481362				
Compliance History Period:	September 01, 2016 to August 31, 2021	Rating Year:	2021	Rating Date:	09/01/2021
Date Compliance History Report Prepared:	August 12, 2022				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	August 12, 2017 to August 12, 2022				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Stephanie McCurley		Phone:	(512) 239-2607	

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:	04/22/2022	(1810500)	
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 327 327.5(c)		
	Description:	Failed to submit written information, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge or spill.		

Customer was not affiliated to Regulated Entity at time of Compliance History Rating.

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
ZULY RONDON DBA TEXAS STAR
TRUCKS;
RN111481362

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2022-1042-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(s). The respondent made the subject of this Order is Zuly Rondon dba Texas Star Trucks ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a cargo and freight shipping company located at 608 South Baird Street, Unit B, in Midland, Midland County, Texas which was responsible for a spill of diesel fuel that occurred approximately 100 yards south of the intersection located at Camino Real-Highway 21 and Ganado Drive in Uhland, Caldwell County, Texas (the "Emergency Response Site"). The Emergency Response Site involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on April 15, 2022, and a record review for the Emergency Response Site conducted on July 14, 2022, an investigator documented that Respondent failed to submit written information, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge or spill. Specifically, no written report had been submitted to the TCEQ for the spill of diesel fuel that occurred on December 6, 2021.
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 Zuly Rondon dba Texas Star Trucks" (the "EDPRP") in the TCEQ Chief Clerk's office on July 20, 2023.
4. The EDPRP was mailed to Respondent's last known address on July 20, 2023, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
5. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on August 10, 2023.
6. By letter dated August 10, 2023, sent to Respondent's last known address via certified mail, return receipt requested, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on August 25, 2023, as evidenced by the signature on the card.

7. 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 failed to submit written information, describing the details of the discharge or spill and supporting the adequacy of the response action, to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge or spill, in violation of 30 TEX. ADMIN. CODE § 327.5(c).
3. As evidenced by Findings of Fact Nos. 3 through 6, 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)(1).
4. As evidenced by Finding of Fact No. 7, 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 \$2,625 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 \$2,625 for violation 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: Zuly Rondon dba Texas Star Trucks; Docket No. 2022-1042-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. Within 30 days after the effective date of this Order, submit a spill incident report and supporting documentation describing the details of the December 6, 2021 spill at the Emergency Response Site and the adequacy of the response action, in accordance with 30 TEX. ADMIN. CODE § 327.5. The report shall address all areas where released MSW was observed at the Emergency Response Site. This report shall be submitted to the addresses listed in Ordering Provision No. 3.c.
- b. Within 45 days after the effective date of this Order, submit written certification, as described in Ordering Provision 3.c., to demonstrate compliance with Ordering Provisions No. 3.a.
- c. The certification 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 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.”
4. 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
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Respondent.
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 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.

8. 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.
9. 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.
10. 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.
11. 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.
12. 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF JENNIFER PELTIER

"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 Zuly Rondon dba Texas Star Trucks' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 20, 2023.

The EDPRP was mailed to Respondent's last known address on July 20, 2023, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on August 10, 2023.

The EDPRP was mailed to Respondent's last known address on August 10, 2023, via certified mail, return receipt requested. According to the return receipt "green card," Respondent received notice of the EDPRP on August 25, 2023, as evidenced by the signature on the card.

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 Jennifer Peltier, 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 29th day of November 2023,

A handwritten signature in cursive script, appearing to read "J Peltier", written over a horizontal line.

Declarant

COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS



EN LO REFERENTE A UNA
ACCIÓN EJECUTORIA EN
RELACIÓN CON
ZULY RONDON, RAZÓN SOCIAL
"TEXAS STAR TRUCKS";
RN111481362

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ANTE LA

COMISIÓN DE CALIDAD

AMBIENTAL DE TEXAS

SENTENCIA EN REBELDÍA EXPEDIENTE NÚM. 2022-1042-MSW-E

El _____, La Comisión de Calidad Ambiental de Texas ("la Comisión" o "la TCEQ") consideró el Informe Preliminar y Petición de la Directora Ejecutiva, presentados de conformidad con el cap. 7 del CÓDIGO DE AGUAS DE TEXAS, el cap. 361 del CÓDIGO DE SALUD Y SEGURIDAD DE TEXAS y las normas de la TCEQ, los cuales solicitan la reparación adecuada, incluida la imposición de una sanción administrativa y una acción correctiva del/de la/de los demandado(a)(os). La demandada a quien se refiere esta sentencia es Zuly Rondon, razón social "Texas Star Trucks" ("la Demandada").

La Comisión formula las siguientes Conclusiones de Hecho y de Derecho:

CONCLUSIONES DE HECHO

1. La Demandada es propietaria y opera una empresa de carga y flete ubicada en 608 South Baird Street, Unit B, en Midland, Condado de Midland, Texas, la cual es responsable de un derrame de diésel que ocurrió aproximadamente 100 yardas al sur de la intersección ubicada en Camino Real-Highway 21 y Ganado Drive en Uhland, Condado de Caldwell, Texas (el "Sitio de Respuesta a Emergencias"). El Sitio de Respuesta a Emergencias involucra o involucró el manejo de desechos sólidos municipales ("MSW," por sus siglas en inglés) como lo define el cap. 361 del CÓDIGO DE SALUD Y SEGURIDAD DE TEXAS.
2. Durante una investigación realizada el 15 de abril de 2022 y una revisión de registros del Sitio de Respuesta a Emergencias llevada a cabo el 14 de julio de 2022, un investigador documentó que la Demandada no presentó información por escrito que describiera los detalles de la descarga o el derrame en respaldo a la suficiencia de la acción de respuesta ante el gerente regional correspondiente de la TCEQ dentro de los 30 días laborables posteriores al descubrimiento de la descarga o el derrame reportable. En específico, no se había presentado un informe por escrito ante la TCEQ sobre el derrame de diésel que ocurrió el 6 de diciembre de 2021.
3. La Directora Ejecutiva presentó el "Informe Preliminar y Petición de Recomendación para que la Comisión de Calidad Ambiental de Texas Emita una Sentencia de Cumplimiento que Imponga una Sanción Administrativa y Requiera Ciertas Acciones de parte de Zuly Rondon, razón social "Texas Star Trucks" (el "EDPRP," por sus siglas en inglés) ante la Oficina de la Oficial Mayor de la TCEQ el 20 de julio de 2023.
4. El EDPRP se envió por correo el 20 de julio de 2023 a la última dirección postal conocida de la Demandada por correo certificado con acuse de recibo y franqueo prepagado. El Servicio Postal de los Estados Unidos devolvió el EDPRP enviado por correo certificado como "no reclamado."
5. La Directora Ejecutiva volvió a presentar el EDPRP ante la Oficina de la Oficial Mayor de la TCEQ el 10 de agosto de 2023.

6. Mediante una carta con fecha de 10 de agosto de 2023, enviada a la última dirección postal conocida de la Demandada por correo certificado con acuse de recibo, la Directora Ejecutiva notificó a la Demandada del EDPRP. De acuerdo con la "tarjeta verde" del acuse de recibo, la Demandada recibió aviso del EDPRP el 25 de agosto de 2023, como lo demuestra la firma en la tarjeta.
7. Han transcurrido más de 20 días desde que la Demandada recibió el aviso del EDPRP. La Demandada no presentó una respuesta ni solicitó una audiencia.

CONCLUSIONES DE DERECHO

1. Como se demuestra en la Conclusión de Hecho Núm. 1, la Demandada está sujeta a la jurisdicción de la TCEQ de conformidad con el cap. 361 del CÓDIGO DE SALUD Y SEGURIDAD DE TEXAS y las normas de la TCEQ.
2. Como se demuestra en la Conclusión de Hecho Núm. 2, la Demandada no presentó información por escrito que describiera los detalles de la descarga o el derrame en respaldo a la suficiencia de la acción de respuesta al gerente regional de la TCEQ correspondiente dentro de los 30 días laborables posteriores al descubrimiento de la descarga o el derrame reportable, infringiendo la sección 327.5(c) del TÍTULO 30 DEL CÓDIGO ADMVO. DE TEXAS.
3. Como se demuestra en las Conclusiones de Hecho de la Núm. 3 a la 6, la Directora Ejecutiva notificó apropiada y oportunamente a la Demandada del EDPRP, como lo requiere la sección 7.055 del CÓDIGO DE AGUAS DE TEXAS y la sección 70.104(b)(1) del TÍTULO 30 DEL CÓDIGO ADMVO. DE TEXAS.
4. Como se demuestra en la Conclusión de Hecho Núm. 7, la Demandada no presentó una respuesta puntual como lo requiere la sección 7.056 del CÓDIGO DE AGUAS DE TEXAS y la sección 70.105 del TÍTULO 30 DEL CÓDIGO ADMVO. DE TEXAS. De conformidad con la sección 7.057 del CÓDIGO DE AGUAS DE TEXAS y la sección 70.106 del TÍTULO 30 DEL CÓDIGO ADMVO. DE TEXAS, la Comisión puede dictar una Sentencia en Rebeldía en contra de la Demandada y emitir la sanción recomendada por la Directora Ejecutiva.
5. De conformidad con la sección 7.057 del CÓDIGO DE AGUAS DE TEXAS, la Comisión tiene la autoridad de imponer una sanción administrativa en contra de la Demandada por infracciones a estatutos estatales dentro de la jurisdicción de la TCEQ, por infracciones a normas adoptadas bajo dichos estatutos o por infracciones de órdenes o permisos emitidos bajo dichos estatutos.
6. Una sanción administrativa por la suma de USD 2625 está justificada por los hechos mencionados en esta Sentencia, y considerada a la luz de los factores establecidos en la sección 7.053 del CÓDIGO DE AGUAS DE TEXAS
7. Las secciones 5.102 y 7.002 del CÓDIGO DE AGUAS DE TEXAS autorizan a la Comisión a emitir órdenes y a llevar a cabo las determinaciones necesarias para efectuar los propósitos de los estatutos dentro de su jurisdicción.

DISPOSICIONES DE LA SENTENCIA

AHORA, POR LO TANTO, LA COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS ORDENA que:

1. Se le imponga a la Demandada una sanción administrativa por la suma de USD 2625 por infringir los estatutos estatales y las normas de la TCEQ. El pago de esta sanción y el cumplimiento de la Demandada de todos los requisitos establecidos en esta Sentencia resuelven únicamente los hechos establecidos por esta Sentencia en esta acción. La Comisión no podrá verse impedida en modo alguno para exigir medidas correctivas o sanciones por infracciones que no se planteen aquí.
2. La sanción impuesta por esta Sentencia se pagará dentro de los 30 días posteriores a la fecha de entrada en vigor de ésta. Todos los cheques presentados para saldar el monto de la sanción impuesta por esta Sentencia deberán hacerse pagaderos a la TCEQ y deberán enviarse con la anotación "Re: Zuly Rondon dba Texas Star Trucks; Docket No. 2022-1042-MSW-E" a:

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. La Demandada deberá cumplir con los siguientes requisitos técnicos:
 - a. Dentro de los 30 días posteriores a la fecha de entrada en vigor de esta Sentencia, presentar un informe de incidente de derrame junto con documentación de respaldo que describa los detalles del derrame del 6 de diciembre de 2021 en el Sitio de Respuesta a Emergencias y la suficiencia de la acción de respuesta, de conformidad con la sección 327.5 del TÍTULO 30 DEL CÓDIGO ADMVO. DE TEXAS. El informe deberá incluir todas las áreas en las que se observó MSW liberado en el Sitio de Respuesta a Emergencias. Este informe deberá enviarse a las direcciones que aparecen en la Disposición de Sentencia Núm. 3.c.
 - b. Dentro de los 45 días posteriores a la fecha de entrada en vigor de esta Sentencia, presentar certificación por escrito para demostrar el cumplimiento de la Disposición de Sentencia Núm. 3.a.
 - c. La certificación solicitada por estas Disposiciones de Sentencia deberá estar acompañada de documentación de respaldo detallada (fotografías, recibos de pago u otros registros inclusive), estar firmada por la Demandada e incluir el siguiente texto de certificación (en inglés):

"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." (*"Certifico bajo pena de ley que he examinado personalmente y estoy familiarizada con la información presentada y con todos los documentos anexos, y que con base en mi indagación a aquellas personas inmediatamente responsables de obtener la información, creo que la información presentada es veraz, precisa y completa. Estoy conscientes de que existen sanciones significativas por presentar información falsa, incluida la posibilidad de multas y prisión por conocer las infracciones"*.)

4. La certificación por escrito y la documentación de respaldo necesaria para demostrar el cumplimiento con estas Disposiciones de Sentencia deberán enviarse a:

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

y:

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

5. Se deniega toda reparación que no se haya concedido expresamente en esta Sentencia.
6. Las disposiciones en esta Sentencia se aplicarán y serán vinculantes para la Demandada.
7. La Directora Ejecutiva podría conceder una extensión de cualquier plazo en esta Sentencia o de cualquier plan, informe u otro documento presentado de conformidad con esta Sentencia, previa demostración fundamentada y por escrito de una causa justificada. Todas las solicitudes de extensiones de los Demandados se realizarán por escrito a la Directora Ejecutiva. Las extensiones no serán vigentes hasta que los Demandados reciban aprobación por escrito de la Directora Ejecutiva. La determinación de lo que constituye una causa justificada recae exclusivamente en la Directora Ejecutiva. Las solicitudes de extensión se enviarán a la División de Cumplimiento a la dirección antes mencionada.
8. Si la Demandada no cumple con alguna de las Disposiciones de esta Sentencia dentro de los plazos prescritos, y dicho incumplimiento es causado únicamente por una fuerza mayor, una guerra, una huelga, un disturbio o cualquier otra catástrofe, el incumplimiento por parte de la Demandada no será una violación de esta Sentencia. La Demandada tendrá la carga de demostrar, a satisfacción de la Directora Ejecutiva, que el hecho ha tenido lugar. La Demandada deberá dar aviso a la Directora Ejecutiva dentro de los siete días posteriores a la fecha en que la Demandada se haya percatado de un suceso de retraso y tomará todas las medidas razonables para mitigar y minimizar cualquier retraso

9. La Directora Ejecutiva podría remitir este asunto a la Oficina del Procurador General de Texas (“OAG,” por sus siglas en inglés) para más procedimientos de ejecución sin previo aviso a la Demandada si la Directora Ejecutiva determina que la Demandada no ha cumplido con uno o más de los términos o condiciones en esta Sentencia.
10. Las disposiciones en esta Sentencia se consideran divisibles y, si un juzgado de jurisdicción competente u otra autoridad apropiada considera que cualquier disposición en esta Sentencia es inejecutable, las disposiciones restantes serán válidas y ejecutables.
11. Esta Sentencia expirará cinco años después de su fecha de entrada en vigor o tras el cumplimiento de todos los términos y condiciones expuestos en la misma, lo que se produzca más tarde.
12. La Oficial Mayor proporcionará una copia de esta Sentencia ejecutada en su totalidad a cada una de las partes. Por ley, la fecha de entrada en vigor de esta Sentencia será la fecha en que la Sentencia sea final, como se indica en la sección 70.106 del TÍTULO 30 DEL CÓDIGO ADMVO. DE TEXAS y la sección 2001.144 del CÓDIGO DE GOBIERNO DE TEXAS.

COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS



DECLARACIÓN NO JURADA DE JENNIFER PELTIER

"En nombre de la Directora Ejecutiva de la Comisión de Calidad Ambiental de Texas, se presentó el 'Informe Preliminar y Petición de Recomendación para que la Comisión de Calidad Ambiental de Texas Emita una Sentencia de Cumplimiento que Imponga una Sanción Administrativa y Requiera Ciertas Acciones de parte de Zuly Rondon, razón social 'Texas Star Trucks' (el "EDPRP") ante la Oficina de la Oficial Mayor el 20 de julio de 2023.

EL EDPRP se envió por correo a la última dirección conocida de la Demandada el 20 de julio de 2023 por correo certificado con acuse de recibo y franqueo prepago. El Servicio Postal de los Estados Unidos devolvió el EDPRP enviado por correo certificado como "no reclamado."

En nombre de la Directora Ejecutiva de la Comisión de Calidad Ambiental de Texas, el EDPRP se volvió a presentar ante la Oficina de la Oficial Mayor de la TCEQ el 10 de agosto de 2023.

Se envió el EDPRP a la última dirección conocida de la Demandada por correo certificado con acuse de recibo. De acuerdo con la "tarjeta verde" del acuse de recibo, la Demandada recibió aviso del EDPRP el 25 de agosto de 2023, como lo demuestra la firma en la tarjeta.

Han transcurrido más de 20 días desde que la Demandada recibió el aviso del EDPRP. La Demandada no presentó una respuesta ni solicitó una audiencia".

"Ni nombre es Jennifer Peltier y soy una empleada de la siguiente agencia gubernamental: la Comisión de Calidad Ambiental de Texas. Estoy ejecutando esta declaración como parte de mis deberes y responsabilidades asignados. Declaro bajo pena de perjurio que lo anterior es correcto y verdadero".

Ejecutada en el Condado de Travis,

Estado de Texas,

El día 29th de Noviembre, 2023

A handwritten signature in cursive script, appearing to read "J Peltier".

Declarante